

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA  
 2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
 3 ALCOHOLIC BEVERAGE CONTROL BOARD

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 5 - - - - -X  
 6 IN THE MATTER OF: :  
 7 Mendelsohn Hospitality Group :  
 8 Case:#16-PRO-00023, 00024 & 00029:  
 9 t/a Bernaise, Good Stuff Eatery:  
 10 and We The Pizza :  
 11 303, 305 & 313 Pennsylv Ave SE :  
 12 License #89622, #82062 & 78027:  
 13 Retailer Class CR, CR, DR :  
 14 ANC 6B :

15 - - - - -X

16 Wednesday, October 5, 2016

17  
 18 Whereupon, the above-referenced matter  
 19 came on for hearing at the Alcoholic Beverage  
 20 Control Board, Reeves Center, 2000 14th Street,  
 21 N.W., Suite 400S, Washington, D.C. 20009.

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3 BOARD MEMBERS PRESENT

4 NICK ALBERTI, BOARD MEMBER

5 JAMES SHORT, BOARD MEMBER

6 MIKE SILVERSTEIN, BOARD MEMBER

7 RUTHANNE MILLER, BOARD MEMBER

8

9 ALSO PRESENT:

10 ANDREW KLINE

11 CHANDER JAYARAMAN

12 WYHAN DANSBY

13 SYLVIA CSIFFARY

14 JOCELYN HONG LOWE

15 MICHELINE MENDELSON

16 JOHN RENNINGER

17

1 P R O C E E D I N G S

2 PROTEST HEARING

3 CHAIRPERSON ANDERSON: Good afternoon,  
4 everyone. We're back on the record. I know this  
5 hearing was scheduled for 1:30 and it's 1:45, so  
6 I apologize for our tardiness. The next case on  
7 our calendar -- it's my understanding that the  
8 next three cases are basically are the three  
9 establishments that are the same ANC and the same  
10 witnesses, I'm sorry, the same licensee, so we  
11 are going to, although it's three separate cases,  
12 I'm just calling one case and we can listen to  
13 all three cases at the same time. Is that the  
14 agreement of the parties or is it the parties'  
15 belief that there should be three separate cases,  
16 that we have three separate hearings on these  
17 cases?

18 MR. KLINE: Just to clarify the first part of  
19 your statement, it's not one licensee, there's  
20 three licensees and three separate companies --

21 CHAIRPERSON ANDERSON: I'm aware of that.

22 MR. KLINE: These are the same principles,

1 but just so the record is clear. The protestants  
2 filed a motion to consolidate. We took no  
3 position on that, and as the board granted that  
4 motion, based on that motion, I think that's  
5 where we are.

6 CHAIRPERSON ANDERSON: All right.

7 MR. KLINE: There hasn't been any discussion  
8 in terms of process, but I think we just proceed  
9 and try the three cases. I think there's  
10 probably a common set of facts, so it shouldn't  
11 be all that difficult.

12 CHAIRPERSON ANDERSON: All right. I'll call  
13 the cases. The first case is case #16-PRO-00023,  
14 Bernaise, license #89622 which is an application  
15 to renew the license. The second case is case  
16 #16-PRO-00024, We The Pizza, license #82062 --  
17 again application to renew the license. The  
18 third case is case #16-PRO-00029, Good Stuff  
19 Eatery, license #79827, and again it's an  
20 application to renew the license, so all three  
21 cases are an application to renew the license and  
22 that's what's being challenged today. Will the

1 parties please identify themselves for the  
2 record, please?

3 MR. KLINE: Good afternoon, Andrew Kline on  
4 behalf of the applicant.

5 MS. MENDELSON: Micheline Mendelsohn.

6 MR. KLINE: Micheline Mendelsohn is part of  
7 the family that controls the three applicants.

8 MR. JAYARAMAN: Chander Jayaraman,  
9 representing ANC 6B.

10 CHAIRPERSON ANDERSON: Spell your last name  
11 for me, please.

12 MR. JAYARAMAN: J-A-Y-A-R-A-M-A-N.

13 CHAIRPERSON ANDERSON: J-A-Y --

14 MR. JAYARAMAN: A-R-A-M-A-N.

15 CHAIRPERSON ANDERSON: Jaman?

16 MR. JAYARAMAN: Jayaraman.

17 CHAIRPERSON ANDERSON: Jayaraman, okay. I'm  
18 going to refer to you a whole lot so I need to  
19 know how to pronounce your name.

20 MR. JAYARAMAN: Call me Mr. Chander, that's  
21 fine too.

22 CHAIRPERSON ANDERSON: Mr. who?

1           MR. JAYARAMAN: Chander. That's my first  
2 name.

3           CHAIRPERSON ANDERSON: All right. Are there  
4 any preliminary matters in this case?

5           MR. KLINE: The only preliminary matter that  
6 I'm aware of is that our understanding is that  
7 the investigator is unavailable today and that,  
8 contrary to the board's normal procedure, the  
9 investigator will not be called as the first  
10 witness in the case. That's my understanding and  
11 there may be issues that arise from that can see  
12 that is the case.

13          CHAIRPERSON ANDERSON: -- the investigator is  
14 not here today, so the board would have to call  
15 this investigator at another -- the board would  
16 have to call its investigator at another time  
17 because the investigator is unavailable today, so  
18 what position, if any, do you have on that, Mr.  
19 Kline?

20          MR. KLINE: Well, the applicant objects to  
21 proceeding on that basis as it's contrary to what  
22 the board has done in every other case that I'm

1 aware of, and certainly changes the tenor of the  
2 case because instead of the applicant proceeding  
3 after the neutral -- or presumably neutral --  
4 investigator's report has been given, that report  
5 will be given at the end of the case.

6 CHAIRPERSON ANDERSON: All right, wouldn't --  
7 doesn't the counsel still have an opportunity to  
8 cross examine the investigator as the report is  
9 in the record, so the parties should be aware of  
10 the investigator's report that, at least since  
11 I've been here, the investigator speaks, or  
12 testifies from the contents of his report, and  
13 I'm not aware of -- at least since I've been here  
14 in November -- I've not experienced an  
15 investigator testifying to facts that are not in  
16 the report. So, at this juncture I'm asking  
17 questions, and I'm going to ask the ANC. So, how  
18 is it that you believe that your client will be  
19 prejudiced by not having the investigator --  
20 investigator testify.

21 MR. KLINE: In my experience, frequently the  
22 investigator does go beyond the four corners of

1 the report. If it's a question of just the paper  
2 report, then presumably it would just be  
3 submitted and we wouldn't even need to call him  
4 to the stand. So, I don't necessarily agree that  
5 in every case the investigator is confined to the  
6 four corners of his report, and given that that's  
7 the board normal procedure and this is different  
8 from that, the applicant is making an objection.

9 CHAIRPERSON ANDERSON: So, are you objecting  
10 to -- are you raising an objection for the record  
11 or are you asking for a continuance? What is it  
12 that you're asking the board?

13 MR. KLINE: We're asking that the case  
14 proceed in the normal course which is to have the  
15 investigator called first.

16 CHAIRPERSON ANDERSON: Are you asking, then,  
17 since the investigator is not available, then  
18 you're asking the board to continue these three  
19 matters?

20 MR. KLINE: If that's the only remedy, I mean  
21 I'll leave that to the board.

22 CHAIRPERSON ANDERSON: Well, you filed an



1 objection so I just need to know where to go when  
2 I ask the ANC, I need to know what position to  
3 take and then when I consult with the other board  
4 members I need to make sure that I know exactly  
5 what your position is, so my understanding is  
6 that the applicant -- the licensee is asking for  
7 a continuance, and the reason why the licensee is  
8 asking for a continuance is because the  
9 investigator is not here today and the licensee  
10 is asking that the way these cases operate is  
11 that the board would present its witness, which  
12 is an investigator, the board would ask the  
13 investigator questions, and then both sides would  
14 ask questions of the investigator. Once the  
15 investigator has testified then the applicant  
16 would present its case in chief, and then the  
17 protestant presents its case in chief. So, that's  
18 -- that's the normal procedure. Since the  
19 investigator has had -- it's my understanding  
20 there's a family emergency, that's one of the  
21 reasons why the investigator is not here, what is  
22 the position of the ANC? Is the ANC in agreement

1 to continue this matter, or is the ANC asking us  
2 to move forward?

3 MR. JAYARAMAN: We ask to move forward today  
4 for several reasons: One, we have all of our  
5 witnesses today, and a continuance would actually  
6 prevent us from fully -- you know, taking time  
7 off to present and be here today and to testify  
8 today. The investigator being an independent  
9 party extension of ABRA would be independent, is  
10 supposed to be independent, and so the testimony  
11 that he would give would be no different today  
12 than it would be -- you know, a week from now,  
13 and both sides would have the chance to cross  
14 examine and I don't think the material facts that  
15 we would present today are going to change at all  
16 based on whether the investigator testifies today  
17 or not, so we would still present our same case  
18 and you would hear the same arguments as any  
19 other time, so we believe that we should proceed  
20 today so that we don't disenfranchise the  
21 residents in the neighborhood.

22 CHAIRPERSON ANDERSON: Mr. Jayaraman -- did I

1 get it right?

2 MR. JAYARAMAN: Jayaraman.

3 CHAIRPERSON ANDERSON: Jayaraman. Mr.  
4 Jayaraman. All right, Mr. Kline?

5 MR. KLINE: I don't have anything to add to  
6 that. I think we've been clear with respect to  
7 what the applicant's expectations are and we  
8 object to proceeding without calling the  
9 investigator first.

10 CHAIRPERSON ANDERSON: Does any board member  
11 wish to publicly state a position, yea or nay,  
12 before I decide this issue?

13 MR. ALBERTI: I.

14 CHAIRPERSON ANDERSON: Mr. Alberti.

15 MR. ALBERTI: I mean, I'm in favor of moving  
16 forward. I'm not -- there's nothing that's been  
17 said that indicates to me that either party would  
18 be prejudiced by proceeding without the  
19 investigator and then having the investigator  
20 testify at a later date and allowing both parties  
21 to question him and the investigator.

22 CHAIRPERSON ANDERSON: Ms. Miller?

1 MS. MILLER: I concur with Mr. Alberti and,  
2 after hearing the parties, it sounds to me as if  
3 the AN -- that the objection was being more  
4 prejudiced because ABRA witnesses are here, and  
5 at one point we were making -- changing the order  
6 of certain parties, and I'm not convinced that  
7 the order of the parties as it is set in our  
8 regulations is that important that any party  
9 would be really prejudiced, and if it changed  
10 anything the applicant I think can present  
11 rebuttal witnesses later or whatever, so that's  
12 where I stand on this issue at this point.

13 CHAIRPERSON ANDERSON: Thank you, Ms. Miller.  
14 Any other board member wish to publicly make a  
15 comment? I believe that the licensee will not be  
16 harmed by moving forward since the protestants  
17 are here, the witnesses are here, the licensee  
18 still has an opportunity to cross examine the  
19 board's witness, and the licensee, if at some  
20 point, they believe -- they can still call a  
21 rebuttal witness if there's a witness who will  
22 testify contrary to what the board's witness has

1   stated, so I believe that we should move forward.  
2   But, I know Mr. Kline that you object and for the  
3   record, your objection is noted for the record.  
4   Okay? All right. This -- these are three  
5   protest hearings on the --

6           MR. KLINE: Mr. Chairman?

7           CHAIRPERSON ANDERSON: Yes.

8           MR. KLINE: I have one other preliminary  
9   matter and that is -- and it relates to the same  
10   issue, my understanding, and I did check with the  
11   board's counsel prior to today, it's been the  
12   process that the investigative report is received  
13   by the board members prior to the hearing and  
14   they have an opportunity to review it prior to  
15   the hearing, which means the board members all  
16   have the benefit of reviewing that, and ,  
17   presuming that's true and given that is the case,  
18   there is a glaring error in the report that I  
19   need to bring to the board's attention. If  
20   that's the case, one it's a matter of process and  
21   there's nothing I can do about that now, in the  
22   report on page 6 there's reference to a

1 settlement agreement -- it's listed as exhibit 22  
2 and it's summarizing that basically the  
3 investigator says that the applicant is obligated  
4 to comply with the settlement agreement, exhibit  
5 22. Exhibit 22 is a draft settlement agreement.  
6 It's never been executed. That raises two  
7 problems: One is the report is factually  
8 incorrect and your records will reflect that you  
9 have no such settlement agreement in your  
10 records. Second, is it's completely contrary to  
11 the board's policy of not admitting or  
12 entertaining settlement discussions. Now that  
13 cat's out of the bag at this point. I can't put  
14 it back in. I would, for future cases, request  
15 that the board instruct the investigative staff  
16 that it's been the board's policy not to include  
17 settlement discussions or proposed settlement  
18 agreements in hearing the case. That's happened  
19 here. There's not much I can do about it at this  
20 point to the extent the board members have read  
21 it, but I do want to correct the factual record,  
22 because I think it's extremely important that the

1 board is aware that this is not a settlement  
2 agreement that any of these three establishments  
3 have ever agreed to.

4 CHAIRPERSON ANDERSON: So --

5 MR. JAYARAMAN: Mr. Chair?

6 CHAIRPERSON ANDERSON: Yes, Mr. Jayaraman?

7 MR. JAYARAMAN: We concur with that. I have  
8 it noted on my copy as well that that is -- it  
9 was not an executed settlement agreement and Mr.  
10 Kline is correct that it was a third edition of a  
11 draft of a settlement agreement that we'd  
12 proposed to the applicant to come to an agreement  
13 and it was not accepted.

14 MR. KLINE: Mr. Chair, I don't want to -- I  
15 don't want to interrupt, but I don't want to  
16 compound the problem. --

17 CHAIRPERSON ANDERSON: No, I --

18 MR. KLINE: -- by discussing what might have  
19 happened with respect to a settlement.

20 CHAIRPERSON ANDERSON: I just want to make  
21 sure we're on page 6, where it talks about Mr.  
22 Jayaraman stated that the applicant agreed to

1 implement and abide by certain stipulations that  
2 are clearly stated on page 2 of the  
3 establishment's settlement agreement. That's --

4 MR. KLINE: And the reference is exhibit 22.  
5 It's an unexecuted settlement agreement.

6 CHAIRPERSON ANDERSON: Okay, all right.  
7 Because I did review and I did ask the agent for  
8 a copy of the settlement agreement, so, and so I  
9 saw that there's no settlement agreement.

10 MR. KLINE: When I discovered this I  
11 immediately alerted the board's counsel and had  
12 it, had the board not received copies, then I  
13 would have requested that the report be corrected  
14 to reflect the facts, but it seemed too late  
15 inasmuch as I was told that the board receives  
16 the investigative report before the hearing, so  
17 that's why I wanted to make that point.

18 CHAIRPERSON ANDERSON: And we all received  
19 the report before, and we all, some semblance of  
20 how much we review it, and so -- but I trust that  
21 all my board members read it, but we all come to  
22 these proceedings with an open mind and we listen



1 to what the parties have to state. All right.

2 Are there any other preliminary matters?

3 MR. JAYARAMAN: Yes, sir.

4 CHAIRPERSON ANDERSON: Yes, sir.

5 MR. JAYARAMAN: We have one of our witnesses  
6 who has to go pick up her friend from the  
7 hospital at approximately 3:30. We would request  
8 that the chair find a time for them to be able to  
9 call that witness if at all possible so she could  
10 attend to her family and friend.

11 CHAIRPERSON ANDERSON: How many witnesses do  
12 you have, Mr. Kline?

13 MR. KLINE: I have two witnesses.

14 CHAIRPERSON ANDERSON: It's 2:00. And you're  
15 asking that the witness be called at what time?

16 MR. JAYARAMAN: No later than 3:00.

17 CHAIRPERSON ANDERSON: Just in case, Mr.  
18 Kline, that you have not concluded your case in  
19 chief at that point, do you have an objection?

20 MR. KLINE: I don't take any position.

21 CHAIRPERSON ANDERSON: You take no position.  
22 What I will say is that I need to see where we

1 are in the case, as that gives us an hour and if  
2 we're very efficient with our time then they have  
3 two witnesses maybe I -- all right, I'll see  
4 where we are and what I'd ask you to do is --  
5 just in case I'm not keeping track of the time,  
6 bring it to my attention at 3:00 and then I will  
7 ask again what, for the applicant, if they have  
8 an objection and if the applicant takes no  
9 position then I'll make a ruling on that issue.

10 This is a protest hearing and I want to make  
11 sure that this hearing is focused on the specific  
12 issue, the appropriateness. I don't want us to  
13 have conversations and discussions and testimony  
14 about things that are irrelevant. I just want to  
15 focus on the standard protest hearing, okay?

16 [inaudible 3:57 to 3:58:38 -- static in  
17 audio]

18 MR. ALBERTI: -- I guess this question looms  
19 in my mind and I'm -- I may be done there but I  
20 don't know if there's going to be objections when  
21 I broach that subject later.

22 MR. KLINE: Mr. Chair, may I respond to that?

1 CHAIRPERSON ANDERSON: Sure.

2 MR. KLINE: Mr. Alberti, I understand what  
3 you're saying and it certainly was not our motion  
4 to consolidate. These are three separate  
5 establishments, they're different, they open at  
6 different times, the applicants -- and as you  
7 know settlement agreements are "negotiated" so  
8 the fact that there might be one provision in one  
9 agreement and not in another agreement, I think  
10 is a product of: Number one, the nature of the  
11 establishment, and number two, when they open,  
12 number three, who the applicants may have been  
13 dealing with when they opened, and, number four,  
14 the course of the negotiations and what the give  
15 and take was, in the final settlement agreement.  
16 So, I hope that's helpful. We don't think,  
17 simply because we did not take a position on the  
18 motion to consolidate, that these are all the  
19 establishment and that they operate all in the  
20 same way. We did think, and I'll get to it in  
21 the opening, that the issue, and I'm not even  
22 saying issues, but the issue here is very, very

1 narrow as it's been raised by the protestants.  
2 And I share your concern that we not get all over  
3 the board considering a bunch of issues that have  
4 either not been raised by the protest letter or  
5 the PIP.

6 MR. ALBERTI: Okay. Thank you, I mention  
7 that mostly because I just didn't want it to be  
8 the elephant in the room as we proceeded.

9 MR. JAYARAMAN: If I could make a comment on  
10 that. As ABC chair I have -- I hear what you're  
11 saying and we have taken that to heart and have  
12 done a great deal in terms of being more uniform  
13 across ANC 6B, and if you look at the more recent  
14 settlement agreements these are ones from 2013,  
15 they are much more consistent and only certain  
16 provisions may be unique to particular  
17 establishments but we tried to be fair all the  
18 way across all the restaurants across ANC 6B. In  
19 this case, two of them are from April, one of  
20 them is from October. The October is from the  
21 newer of the three establishments, which is  
22 Bernaise, and so that was slightly different.

1   However, the Sunnyside Group, which is Good Stuff  
2   Eatery, and We The Pizza should be fairly similar  
3   and it's our position they are severely lacking  
4   in controls.

5           MR. ALBERTI:   Okay, thank you for that and as  
6   a former ANC member I understand how difficult it  
7   is to get some uniformity amongst the processes.

8           CHAIRPERSON ANDERSON:   All right.

9           MR. KLINE:   We may just disagree in terms of  
10   whether conformity or uniformity is a goal or  
11   should be a goal or whether these --

12          MR. ALBERTI:   I'm not saying it should be a  
13   goal.   I'm not saying it should be a goal.   But I  
14   think the responses I got kind of, sort of  
15   pointed to point out to me exactly what issues  
16   may be amongst the parties here.

17          MR. KLINE:   Okay.

18          CHAIRPERSON ANDERSON:   All right.   How many  
19   witnesses do you have, Mr. Jayaraman?

20          MR. JAYARAMAN:   We have three witnesses.

21          CHAIRPERSON ANDERSON:   Three witnesses?  
22   Each party will be provided five minutes for

1 opening and closing, and each side has 90 minutes  
2 to direct, to do direct and cross examination of  
3 opposing witnesses, so although there are three  
4 cases we might have some leeway, but I just want  
5 folks to be mindful of the time. I know  
6 everyone's time is valuable. The board will be  
7 here until this hearing is over, whatever time it  
8 is, but I just want everyone to be mindful of  
9 each other's time and just to be mindful that the  
10 longer you keep folks the more folks start not  
11 paying attention, so that's just human nature. I  
12 just want you to know that for us to be efficient  
13 in our time. Mr. Kline, do you wish to make an  
14 opening statement?

15 MR. KLINE: I do. Good afternoon, Mr.  
16 Chairman and members of the board. This is a  
17 case that involves three establishments in one  
18 block on Pennsylvania Avenue Southeast in the  
19 Capitol Hill area of Washington D.C. These three  
20 establishments have common ownership; however,  
21 each establishment is different, they are unique.  
22 Two of them are fast casual, We The Pizza and

1    Good Stuff Eatery.  The other one what their fast  
2    casual restaurants.  Bernaise, which is the third  
3    licensee, is a fine dining establishment.  So,  
4    there are differences and there were some  
5    introductory questions or inquiries concerning  
6    why there might be differences among settlement  
7    agreements or treatment, well that's certainly a  
8    reason.  Based on the protest letter that's been  
9    filed and the PIP that's been filed in this case,  
10   we think we're dealing with one very, very narrow  
11   area, and that is the licensees, and I use  
12   plural, the licensees' efforts with respect to  
13   trash and litter management.  That's what was  
14   raised.  There was something raised in the  
15   protest letter about noise.  I don't know whether  
16   we're going to see any evidence that that's an  
17   issue.  There wasn't anything in the PIP that  
18   indicated that that's continued to be an issue,  
19   but certainly noise -- certainly litter appears  
20   to be the main issue and the main complaint and  
21   the main concern of the protestants.  We think  
22   there is, and I think it may have been referred

1 to as the elephant in the room, another issue,  
2 which we do not recognize as an issue, that the  
3 protestants are upset that these establishments  
4 won't sign the same boilerplate settlement  
5 agreement that everyone else has signed. So, we  
6 believe that that's a subsidiary issue. We think  
7 it's already reflected in the investigative  
8 report that's been shared with the board, and we  
9 think the evidence will further demonstrate that  
10 that's the case. Under the law, the applicant's  
11 responsibility, and we believe that there will be  
12 ample evidence to show that they have -- the  
13 applicant's responsibility, under D.C. code  
14 Section 25-726-A which was cited by the  
15 protestants in their PIP, is to take reasonable  
16 measures to ensure that the immediate environs of  
17 the establishment are kept free of litter. We  
18 believe that the testimony and the evidence that  
19 you will hear today will demonstrate that these  
20 licensees have taken more than reasonable steps  
21 to control the litter around each of these  
22 establishments and have worked very hard to do so



1 and at the conclusion of the case we believe that  
2 you will agree that they have done so. We  
3 believe that it's a very narrow issue and we will  
4 ask you at the conclusion of the case to approve  
5 reissuance of the licenses as is the law, as has  
6 been pointed out in settlement agreements in  
7 place, there has been no effort to terminate  
8 those, so they would continue and we would submit  
9 that the board will need -- will not need to add  
10 in conditional conditions, restrictions or  
11 prohibitions to these licenses, and that's what  
12 our evidence will show. The evidence will also  
13 show that two of these restaurants, their alcohol  
14 sales are pretty minimal, so we are here before  
15 the ABC board on what is really a trash  
16 management issue. We concede that the statute  
17 contemplates that to a point, but the point is  
18 whether the applicant has taken reasonable  
19 measures and we believe that the evidence will  
20 show that they have. Thank you.

21 CHAIRPERSON ANDERSON: Do you wish to make an  
22 opening statement or this time or later?

1 MR. JAYARAMAN: I'll make it now.

2 CHAIRPERSON ANDERSON: Okay.

3 MR. JAYARAMAN: ANC 6B will show through  
4 testimony and evidence that the applicant has  
5 regularly violated Section 25-726 A for many  
6 years by not taking reasonable measures to ensure  
7 that the alley and trash storage area is free of  
8 litter. The three establishments, Good Stuff  
9 Eatery, We The Pizza and Bernaise jointly utilize  
10 two trash storage areas, one which is a  
11 refrigerated walk-in cooler behind Good Stuff  
12 Eatery, for the trash and recycling storage area  
13 rented from the owner of the property J.C.  
14 Bernaise at 317 Pennsylvania Avenue. ANC 6B has  
15 serious concerns and reservations about the  
16 appropriateness of these establishments with the  
17 neighborhood because they have failed to take  
18 reasonable measures to control litter and have an  
19 adverse impact on the peace, order and quiet of  
20 the residential neighborhood. The ANC 6B in good  
21 faith attempted to work with the applicant on  
22 specific mutually agreeable conditions through a

1 negotiated settlement agreement to address these  
2 serious neighborhood concerns. Despite having  
3 produced three different drafts of a settlement  
4 agreement --

5 MR. KLINE: Objection. I need to object.

6 CHAIRPERSON ANDERSON: He has not told me  
7 what they are, so he hasn't told me -- remember,  
8 he hasn't told me what it is -- he has not  
9 discussed any settlement agreement, the terms,  
10 he's just saying that you're trying -- at least  
11 what I heard, we were trying to negotiate, we  
12 provided them three drafts, he hasn't told me  
13 what was in the draft.

14 MR. KLINE: Mr. Chair, we believe that it has  
15 been the board's policy not to entertain  
16 settlement discussions at all. The fact that  
17 substance is not being discussed, whether one  
18 party tendered a draft or the other party  
19 tendered a draft, and the other party refused to  
20 sign it, that all goes to the tenor of the  
21 negotiations. And we would submit that that's  
22 just as improper as talking about what specific

1 conditions were discussed. In this case, where  
2 counsel has, the board has already seen  
3 apparently what it is that was proposed, I think  
4 it's even more important that we not get into who  
5 discussed what, and who made offers and who  
6 refused them. I mean, I think that's just  
7 completely inappropriate, but I leave that to the  
8 board, and I think that's consistent with the  
9 board's previous rulings.

10 CHAIRPERSON ANDERSON: But Mr. Kline, it's  
11 obvious to the board that you had mediations, you  
12 have had serious, you have had the opportunity to  
13 negotiate to come up with settlements but it is  
14 obvious to the board that the parties have been  
15 unable to agree to a settlement agreement.  
16 That's why we have to make the decision. So, I'm  
17 not -- I think it's fine. He's stating his case,  
18 saying that they've tried, I mean it's -- the  
19 board will take that for whatever it means but as  
20 long as he doesn't go into what it is that was in  
21 the settlement agreement, what it is that you --  
22 I'm fine with it, so you can continue, sir.

1           MR. JAYARAMAN: Thank you. Despite having  
2 produced three different drafts of a settlement  
3 agreement based on conversation with the  
4 applicant, the applicant has simply refused to  
5 negotiate with the ANC. The inadequate trash  
6 management practices have led to an explosion of  
7 the rodent population behind these establishments  
8 which has had an adverse impact on the peace,  
9 order and quiet on the residential neighborhoods  
10 on Third Street Southeast and C Street Southeast  
11 as a direct result of the poor trash management  
12 practices, nearby neighbors have been forced to  
13 take extraordinary measures to fend off rodents  
14 and have been unable to peacefully enjoy or allow  
15 their children to play in their rear yards. In  
16 addition, rodent infestation and careless vendors  
17 have caused property damage to houses located  
18 near the rear of these establishments and  
19 resulted in a negative impact on property owners  
20 through lost rental income and reduced property  
21 values. We are claiming that the applicants have  
22 violated three specific sections: Section 25-

1 726A which requires that retailers take  
2 reasonable measures to ensure that the immediate  
3 environs of the establishment, including adjacent  
4 alleys, sidewalks and other public property  
5 immediately adjacent to the establishment or  
6 other property used by licensee to conduct its  
7 business are kept free of litter.

8 Second, Section 21-704, which is food waste  
9 disposal. We believe that all establishments,  
10 according to the regulations, that produce food  
11 and are served by Sanicor are supposed to grind  
12 up grindable food waste using the appropriate  
13 type of grinders required and not put them in the  
14 trash can.

15 Third, we believe that they are in violation  
16 of 21-DCMR-707.11 in which it states that a waste  
17 container should be kept closed at all times  
18 other than when a container is being filled or  
19 emptied. The area where the waste container is  
20 stored shall be kept free of spilled waste at all  
21 times. We believe we've shown in our photograph  
22 that we submitted in our exhibit, that

1 continuously that goes back from September of  
2 this year all the way back to 2014, that there  
3 have consistently been violations where trash  
4 dumpsters have been overfilled and left that way  
5 and which is continuously feeding the expanding  
6 rodent population in that area. We've only  
7 shared with you brief snippets of the actual  
8 photographs that we have but I think it does, you  
9 know, support the point that we are contending.

10 Finally, we believe that the ABC board has  
11 set previous precedents in case #15-CMP-0059, the  
12 in -- Red Apron the -- that supports our  
13 contention that trash management is an issue that  
14 the board can rule on, as well as another key  
15 case in which the ABC board established a two-  
16 part test to determine whether an applicant is in  
17 violation, and you set this forth in Union  
18 Kitchen case and that case number is #15-CMP-  
19 00662, and those two conditions were that the  
20 retailer lacks reasonable measures to control  
21 trash and that the area is not free of litter.  
22 We believe that the evidence that we've presented

1 and the testimony that we will share from our  
2 neighbors will demonstrate beyond a reasonable  
3 doubt that the applicants have violated this  
4 section and that we have specific conditions that  
5 we would like the ABC board to place on the  
6 licensee to be able to operate there. And if the  
7 ABC board is not willing to do that, we believe  
8 that the establishments are not appropriate for  
9 this area and that the ABC board should not renew  
10 their licenses.

11 CHAIRPERSON ANDERSON: All right, thank you.  
12 Mr. Kline, do you want to call your first  
13 witness?

14 MR. KLINE: Yes, I call to the stand  
15 Micheline Mendelsohn.

16 CHAIRPERSON ANDERSON: Ms. Mendelsohn, can  
17 you raise your right hand, please. Do you swear  
18 or affirm to tell the truth and nothing but the  
19 truth?

20 MS. MENDELSON: Yes.

21 CHAIRPERSON ANDERSON: All right, your  
22 witness, sir.



1           MR. KLINE: You may be seated. State your  
2 name for the record, please.

3           MS. MENDELSON: Micheline Mendelson.

4           MR. KLINE: And you are connected with the  
5 three applicants in this case.

6           MS. MENDELSON: Yes, my family owns all the  
7 three establishments with my brother, my mother  
8 and my father.

9           MR. KLINE: So, it's a family affair.

10          MS. MENDELSON: A family business.

11          MR. KLINE: All right. The first  
12 establishment of the three licensees was what?

13          MS. MENDELSON: Good Stuff Eatery. It  
14 opened in 2008.

15          MR. KLINE: And tell the board about that  
16 concept. What is Good Stuff Eatery?

17          MS. MENDELSON: So, that is a hamburger,  
18 French fry and milkshake restaurant. It serves  
19 locally organic produced hamburgers, milkshakes  
20 and French fries.

21          MR. KLINE: And was that opened in the wake  
22 of your brother's success.

1 MS. MENDELSON: Yes. My brother was on a  
2 television show called Top Chef on Bravo Network,  
3 and when he got off that show, and simultaneously  
4 my parents had moved to Washington D.C., and we  
5 decided to open a restaurant because I was living  
6 on Capitol Hill at that time and there really  
7 weren't that many restaurants on that block. So,  
8 they opened a restaurant, and then my brother  
9 went on the show and got off the show and that  
10 all kind of happened in 2008.

11 MR. KLINE: Okay, and that was the start.

12 MS. MENDELSON: Yes.

13 MR. KLINE: That was the first one. And  
14 then, what was the second establishment that was  
15 opened?

16 MS. MENDELSON: We The Pizza was the second  
17 establishment. It opened in 2010, and that is a,  
18 you know, the title, it's pizza by the slice, New  
19 York style pizza. It serves upscale pizzas,  
20 homemade Italian sodas and wings.

21 MR. KLINE: And then the last one was  
22 Bernaise?

1 MS. MENDELSON: Bernaise opened in 2013,  
2 and that is an upscale French bistro, serving  
3 steak frites, mussels, duck confit, and in that  
4 restaurant we have a small bar with wine, beer  
5 and some alcohol.

6 MR. KLINE: Is it fair to say that Bernaise  
7 is more of a sit-down?

8 MS. MENDELSON: Yes, Bernaise is a sit-down,  
9 the other two restaurants are fast casual  
10 restaurants. Bernaise is a waiter service.

11 MR. KLINE: Okay, and the other restaurants  
12 are not.

13 MS. MENDELSON: They are not.

14 MR. KLINE: Typical fast, casual, go up and  
15 order, pay --

16 MS. MENDELSON: You have a buzzer and then  
17 your food -- when your food is ready you're  
18 buzzed and you go up to the expediting station  
19 and you pick up your own food and sit wherever  
20 you want within the restaurant. Bernaise,  
21 there's the hostess that seats you and a waiter  
22 takes your order.

1           MR. KLINE: In 2008, or '07 or whenever it  
2 was, when preparations first began to open the  
3 first restaurant, Good Stuff, was there  
4 construction that was being done for that  
5 restaurant?

6           MS. MENDELSON: Yes, there was massive  
7 construction so in 2008 we overtook what was Pulp  
8 on the Hill. It was a card shop, and we took  
9 over that space and had to completely renovate  
10 the interior of the building and then we worked  
11 with the Capitol Hill Historical Association to  
12 preserve the façade and worked with them on, you  
13 know, the designs and what we wanted it to look  
14 like and what they wanted it to look like. It  
15 ended up being a 1.5 million dollar renovation.

16          MR. KLINE: So that was '08.

17          MS. MENDELSON: That was '08.

18          MR. KLINE: And then We The Pizza opened when  
19 again?

20          MS. MENDELSON: 2010.

21          MR. KLINE: Okay, two years later?

22          MS. MENDELSON: Yes. We The Pizza was an

1 existing restaurant called The Greek Taverna. It  
2 was infested with rodents and vermin and we had  
3 to go through several weeks with Ecolab which was  
4 our pest control company, of tenting the area,  
5 pulling out a lot of vermin that was in that  
6 building and that also was about a 1.2 million  
7 dollar renovation.

8 MR. KLINE: Now, in pursuing these  
9 renovations what did you find, if anything, with  
10 respect to the rodent population in the area.

11 MS. MENDELSON: They were very old  
12 buildings, all three, that had been infested with  
13 bugs, cockroaches and, I mean everything. Pulp  
14 on the Hill not as much because it had been a  
15 card shop, but the other two were older  
16 restaurants that nothing had been changed,  
17 touched or done in 30 plus years to them, and so  
18 we relied heavily on Ecolab and the construction  
19 company to kind of, you know, take down walls and  
20 put walls back up just so we could get rid of  
21 things that were crawling in between walls and  
22 underneath floor boards and in the ceiling and

1 things like.

2 MR. KLINE: And what about in the surrounding  
3 area, the alley, behind, and the other areas?

4 MS. MENDELSON: There were rodents and at  
5 the time there was Co-C which was the only, you  
6 know, restaurant on that block. The other two  
7 restaurants were predominantly bars. Hawk and  
8 Dove and I think that's it at the, actually. Oh,  
9 no, Thai Rama was there because it hadn't been  
10 Bernaise yet. And there were rodents. And there  
11 was a Starbucks on the corner and there were  
12 rodents there. And, of course, the construction  
13 created more rodents, because we were digging up  
14 foundations and changing things inside the  
15 buildings and really renovating the buildings on  
16 that block.

17 MR. KLINE: When you first came to -- well,  
18 you said you lived in the neighborhood, but when  
19 you first became more involved with these  
20 properties did you learn that rodents in this  
21 block are a fact of life?

22 MS. MENDELSON: Yeah, rodents -- rodents

1   existed on that block before we got there. I  
2   would strongly argue that they were 100 times  
3   worse before we got there because the buildings  
4   that were there were very filthy-run  
5   establishments. But, I mean I've lived in D.C.  
6   over 15 years. I live currently on Capitol Hill  
7   on Maryland and -- Avenue Northeast -- and there  
8   are rodents, you know there are rodents in my  
9   alley and I'm four blocks from H Street or any  
10   restaurant. There's rodents in the alley and all  
11   the neighbors get together and we put, you know,  
12   our pest control company, and we put bait boxes,  
13   and every few months there's rodents in our  
14   alley. And when I used to work at the Canadian  
15   Embassy on Pennsylvania and Third, you know, late  
16   at night when I would go home there were rodents  
17   crossing the street. I mean, you know, there are  
18   rats in D.C. and one of the places I lived was  
19   Third and East Capitol across from the Folger  
20   Library and there was a rodent infestation in our  
21   basement the landlord had to take care of. So,  
22   they exist. I would certainly argue that with

1 the renovations of the buildings on that block  
2 specifically we have, if anything, made it better  
3 and a cleaner environment.

4 MR. KLINE: With respect to trash management,  
5 has that been an issue that you've worked on  
6 since these restaurants opened?

7 MS. MENDELSON: Yes, we worked with the ANC  
8 that approved our license with Good Stuff Eatery  
9 when we opened. We had trash management in place  
10 then. The Co-C on the corner was sold to Pret A  
11 Manger who's the current person there and our  
12 trash used to go out on Third Street and they  
13 built a wall because it was private property and  
14 they wanted to use their trash area instead of  
15 for trash for -- they're able to park six cars  
16 there now. So, what ended up happening is we  
17 were then forced to use the trash area along the  
18 alley that is behind all of the restaurants and,  
19 as a result of using the trash alley and the  
20 restaurants and a meeting in 2013, with David  
21 Garrison and the neighbors, we then have moved  
22 the trash area to behind the BB & T building



1    which kind of has a little area in the back that  
2    we've been able to use that we can put six trash  
3    containers in so they don't line up along the  
4    alley.

5           MR. KLINE:    All right, you referenced David  
6    Garrison.  Who is he?

7           MS. MENDELSON:  David Garrison was the  
8    former ANC, I guess Chander's old position, and  
9    Jennifer Jones'.  It's Jennifer Smolek, sorry.

10          CHAIRPERSON ANDERSON:  Mr. Kline --

11          MS. MENDELSON:  And --

12          CHAIRPERSON ANDERSON:  Hold on a minute,  
13    please.  The witnesses can only address an  
14    attorney, we can't have any questions back and  
15    forth with anyone else.

16          MS. MENDELSON:  Okay.

17          CHAIRPERSON ANDERSON:  Okay?  If you don't  
18    know the answer then you can state "I don't know  
19    the answer."

20          MS. MENDELSON:  Okay.

21          CHAIRPERSON ANDERSON:  Okay?  All right.

22          MS. MENDELSON:  So, David Garrison was the

1 old Jennifer, current Jennifer Smolek, and he  
2 worked with us, he was part of the ANC, and he  
3 worked with us when we opened Bernaise Restaurant  
4 in 2013 and convened a neighborhood meeting  
5 between us and our neighbors.

6 MR. KLINE: If I may, with the board's  
7 permission, I'm going to use many of the  
8 investigator's exhibits. I'll have them properly  
9 identified but that's what I --

10 CHAIRPERSON ANDERSON: Sure, Mr. Kline. I  
11 mean, sure there are documents that are out  
12 there. Of course you can utilize them and if you  
13 want to move them into evidence you let me know.

14 MR. KLINE: So, I am going to show you  
15 exhibit 26, the investigator's report. To help  
16 the board

17 CHAIRPERSON ANDERSON: What is it?

18 MR. KLINE: Exhibit 26 of the investigator's  
19 report.

20 CHAIRPERSON ANDERSON: I just want to make  
21 sure, can you show me? Okay, great.

22 MR. KLINE: I can hand this up if --

1 CHAIRPERSON ANDERSON: No, I have it. I just  
2 want to make sure that I'm looking at the same  
3 document that you have.

4 MR. KLINE: Exhibit 26 in the investigator's  
5 report, can you identify what this is? Do you  
6 know what this is?

7 MS. MENDELSON: Yes, it's Bernaise  
8 restaurant at 313 Pennsylvania Avenue Southeast.

9 MR. KLINE: Is that reflected here on this  
10 diagram?

11 MS. MENDELSON: Yes, it is.

12 MR. KLINE: And this is a little map for the  
13 record?

14 MS. MENDELSON: Yes.

15 MR. KLINE: Okay. And you talked about an  
16 alley, you talked about Co-C. Could you just  
17 walk the board through the locations of the areas  
18 that you were referring to in your testimony so  
19 we'll have some idea of the lay of the land.

20 MS. MENDELSON: Sure. If you look at the  
21 corner of Third, Third Street, on the block where  
22 the Bernaise is in, that corner is taken by what

1 is currently a Pret A Manger and that used to be  
2 a Co-C restaurant. Next door to that would be  
3 Good Stuff Eatery. Next door to that would be We  
4 The Pizza, and then you have a dry cleaners that  
5 has been on that block for over 40 years, and  
6 then you have Bernaise restaurant.

7 CHAIRPERSON ANDERSON: I'm sorry, but I'm not  
8 following you.

9 MS. MENDELSON: Sure.

10 CHAIRPERSON ANDERSON: I don't -- because  
11 there's nothing, there are no names on this map  
12 with the exception of Bernaise.

13 MS. MENDELSON: So this first block right  
14 here, this corner area, would be where the Pret A  
15 Manger is.

16 MR. ALBERTI: Can I interject something here?  
17 Mr. Kline, is the map marked correctly?

18 MR. KLINE: It is to the extent that it's  
19 marked, yes.

20 CHAIRPERSON ANDERSON: The only thing I found  
21 on the map that I have, I see, it identifies  
22 Bernaise restaurant 313 Pennsylvania Avenue, but

1   there's no other markings .   I see C Street and  
2   Third Street but there's no other markings on the  
3   map that identify the establishments.   That's one  
4   of the reasons why -- she was talking about what  
5   the establishments are, it's not identified on  
6   the map, on my map.

7           MR. KLINE:   Right.   She was identifying them,  
8   but I would refer the board, and I'll hand the  
9   witness exhibits 25, 27 and 28, that separately  
10   detail the locations.   I was just having her go  
11   through and identify them in the row, but perhaps  
12   the board wants to look at those, that will be  
13   possibly easier.

14          MR. ALBERTI:   So, Mr. Kline, I'm trying to  
15   understand the exhibits.   So on, well not  
16   testimony, but on exhibit 27 it looks like the  
17   third property in there is labeled as We The  
18   Pizza.   Is that correct?

19          MR. KLINE:   You're looking at what, 27?

20          MR. ALBERTI:   That would be correct, right,  
21   okay.

22          MR. KLINE:   Perhaps we'll look at --

1           MR. ALBERTI: But it's on 28 -- on 20 --  
2   okay, yeah, I guess it's 28 but the property on  
3   the end is marked as Good Stuff Eatery, but I  
4   thought that that was -- I forget the name of the  
5   place that's there now.

6           MS. MENDELSON: Pret A Manger.

7           CHAIRPERSON ANDERSON: Well I -- hold on one  
8   minute. There are no documents in the record, so  
9   since this has been taken out of order, we  
10   shouldn't be referring to exhibits that are not  
11   on the record, so the only exhibit that has been  
12   identified partly is 26, so that's the only  
13   document that we should look at --

14          MR. KLINE: Okay.

15          CHAIRPERSON ANDERSON: -- is 26 until Mr.  
16   Kline has brought in another exhibit.

17          MR. KLINE: I'll stick with 26. Do you have  
18   a pen in front of you, Ms. Mendelson?

19          CHAIRPERSON ANDERSON: I mean, there's  
20   another document that --

21          MR. KLINE: I think that will be easier.

22          MR. ALBERTI: If she labels them.

1 MR. KLINE: Yeah.

2 MR. ALBERTI: All right.

3 MS. MENDELSON: I don't.

4 MR. KLINE: Okay. I'll hand you a pen and we  
5 go through -- you had said on the corner is now  
6 Pret A Manger --

7 MS. MENDELSON: Yes.

8 CHAIRPERSON ANDERSON: Hold on one minute,  
9 yes sir.

10 MR. JAYARAMAN: If it's convenient for the  
11 chair, I've labeled all of these under our  
12 exhibit 1.

13 MR. KLINE: That's fine.

14 CHAIRPERSON ANDERSON: Hold on.

15 MR. JAYARAMAN: Just trying to speed things  
16 up so we don't waste any time.

17 MR. KLINE: No problem with that ever. So,  
18 on the corner is Pret A Manger, correct?

19 CHAIRPERSON ANDERSON: Hold on, what document  
20 are we looking --

21 MR. KLINE: We're looking at 27.

22 CHAIRPERSON ANDERSON: Okay, so she's looking

1 at 27, okay.

2 MR. KLINE: Mr. Jayaraman, what is your  
3 exhibit number?

4 MR. JAYARAMAN: Exhibit 1.

5 MR. KLINE: Exhibit 1.

6 MS. MENDELSON: Do you want me to hand this  
7 to you?

8 CHAIRPERSON ANDERSON: I'm fine, I just want  
9 to make sure that it's -- whichever document.

10 MR. KLINE: So, you've labeled them all at  
11 this point?

12 MS. MENDELSON: Yes.

13 MR. KLINE: All right, so on the corner is?

14 MS. MENDELSON: Pret A Manger.

15 MR. KLINE: And we're talking about the south  
16 side of Pennsylvania Avenue Southeast, correct?

17 MS. MENDELSON: Yes.

18 MR. KLINE: And it's the corner of  
19 Pennsylvania and Third.

20 MS. MENDELSON: Yes.

21 MR. KLINE: All right, so on the corner is  
22 Pret A Manger. What's next door?



1 MS. MENDELSON: Good Stuff Eatery.

2 MR. KLINE: Okay.

3 MS. MENDELSON: We The Pizza.

4 MR. KLINE: Okay.

5 MS. MENDELSON: Lester's Drycleaners.

6 MR. KLINE: Okay.

7 MS. MENDELSON: And BB & T building. I'm  
8 sorry, Bernaise and then the BB & T.

9 MR. KLINE: Okay, Bernaise and then the BB &  
10 T building.

11 MS. MENDELSON: Yep.

12 MR. KLINE: All right. And then you  
13 referenced an alley before when you were talking  
14 about the trash, is that alley reflected on that  
15 drawing?

16 MS. MENDELSON: Yes, if you look at the map,  
17 right in the corner you can see the -- it's like  
18 a little blotch -- of the alley.

19 MR. KLINE: Right, so you can see the --

20 MS. MENDELSON: It's a little spot off of  
21 Third Street where the alley used to exist.

22 MR. KLINE: Okay. So, but there's also an

1 alley on the rear.

2 MS. MENDELSON: C Street that goes right up  
3 against the back of Bernaise and the BB & T  
4 building.

5 MR. KLINE: All right, and the record  
6 reflects that you're demonstrating that for the  
7 board on the drawing, correct?

8 MS. MENDELSON: Yes.

9 MR. KLINE: All right. So, there was another  
10 alley that was adjacent to what was previously  
11 Co-c and now is Pret A Manger --

12 MS. MENDELSON: Yes.

13 MR. KLINE: -- in from Third Street.

14 MS. MENDELSON: Yes.

15 MR. KLINE: All right. And at some point you  
16 were using that for trash removal in some way.

17 MS. MENDELSON: Yes, we were using that  
18 exclusively for trash removal.

19 MR. KLINE: And that was then walled off?

20 MS. MENDELSON: Pardon me?

21 MR. KLINE: That was then walled off?

22 MS. MENDELSON: Yes, it was then walled off.

1 The owners, the Co-c was sold to new owners and  
2 they walled it up so they could use the area for  
3 parking instead of trash removal, so they're able  
4 to park four to six cars there now.

5 MR. KLINE: All right, so that created a  
6 problem for you.

7 MS. MENDELSON: It created a big problem for  
8 us and the drycleaners and the BB & T building  
9 because we would all use that access for our  
10 trash, and now we were forced to use the alley,  
11 which you can see off of C Street and we would  
12 have to line up all our trash along that alley.

13 MR. KLINE: And did you continue that  
14 practice? Or you said you ultimately made a  
15 change?

16 MS. MENDELSON: We continued that practice  
17 until 2013, when David Garrison asked us to host  
18 a meeting with the neighbors in the area because  
19 there were some issues that they wanted to talk  
20 through with us, and then that is how we then  
21 proceeded to use the BB & T space.

22 MR. KLINE: So, the B & T space is adjacent

1 to --

2 MS. MENDELSON: It's adjacent to the alley,  
3 it's directly behind the building and it's just  
4 kind of like a wide open semi-circle.

5 MR. KLINE: Okay. And when you say you used  
6 that space, what have you used it for?

7 MS. MENDELSON: We've used it to store six  
8 trash containers.

9 MR. KLINE: Okay. Now, so in '13 you hosted  
10 this meeting --

11 MS. MENDELSON: Yes.

12 MR. KLINE: Thereafter, were you engaged with  
13 the community about this trash management issue?

14 MS. MENDELSON: Yes, we were very engaged  
15 with the community. David Garrison would e-mail  
16 me frequently, and at that meeting it was my  
17 understanding that one of the neighbors had been  
18 appointed a head of the neighbors and she would  
19 e-mail me two, three times a week.

20 MR. KLINE: And who was that person?

21 MS. MENDELSON: Sylvia Csiffary.

22 MR. KLINE: All right. And, as a result of

1 those conversations, the result of your own  
2 willingness to deal with the trash issue, were  
3 there other steps that were taken?

4 MS. MENDELSON: Yes. What proceeded were  
5 several e-mail exchanges and meetings with Sylvia  
6 about how to maintain the trash area. Should I  
7 go through each --

8 MR. KLINE: Sure, tell the board what you  
9 did.

10 MS. MENDELSON: So, can I refer to my notes  
11 that I have?

12 MR. KLINE: Yes. You have notes to refresh  
13 your recollection?

14 MS. MENDELSON: Yes.

15 CHAIRPERSON ANDERSON: I'm not -- you're --  
16 Mr. --

17 MR. JAYARAMAN: A lot of this is hearsay.  
18 The conversation that happened when, you know, I  
19 was not there, or I don't know if there's anybody  
20 else here who could verify if these took place on  
21 the applicant's behalf, we don't have that.

22 CHAIRPERSON ANDERSON: I think she's staying

1 -- I didn't feel that there -- I thought you were  
2 objecting to the notes because I thought that's  
3 what she's testifying, I don't have a problem  
4 with her testimony, so that's not an issue. I  
5 thought you were objecting to her reviewing notes  
6 that she has, notes that she has.

7 MR. JAYARAMAN: I forget, too, so I  
8 empathize.

9 MR. KLINE: Will you please relate to the  
10 board the steps that were taken and approximately  
11 when they were taken?

12 MS. MENDELSON: Yes. So, shortly after the  
13 meeting with David Garrison I received e-mails  
14 from Sylvia asking me to do or help with the  
15 trash management areas in several steps. The  
16 first one was that the neighbors -- we had  
17 plastic lids on the trash bins and they wanted  
18 aluminum lids that were heavier so the rats  
19 couldn't go underneath the plastic lids. So, we  
20 changed all of the lids to the heavy duty  
21 aluminum ones so they would stay closed. And  
22 then I received another e-mail that some of the

1 neighbors thought that because the restaurant's  
2 closed late at night when the people would close  
3 the trash lids it was too loud, the noise of  
4 closing the bins was too loud. They asked me to  
5 contact our pest control company to come out,  
6 double the amount of times that it used to come  
7 out which we did and they still currently come  
8 out about twice a month, and if there's a week or  
9 two here that it's worse they come out extra.  
10 During the summer, obviously, trash is more of an  
11 issue so they come out more frequently during the  
12 summer months. Sylvia sent an e-mail if we could  
13 have twice a day pickup instead of once, which we  
14 did. We work with our trash management company  
15 and now they come and pick up in the morning and  
16 in the afternoon. The neighbors wanted some of  
17 the times adjusted to when they were coming to  
18 pick up so we worked with the trash company so we  
19 could be earlier on the route and later on the  
20 route, to adjust for that. I have an e-mail that  
21 asks us and my contractor for the restaurants to  
22 install mesh wiring along the BB & T alley, the

1 back of the trash area, and the back of the  
2 restaurants, which we did.

3 MR. KLINE: What was the purpose of that mesh  
4 wiring?

5 MS. MENDELSON: The mesh wiring was  
6 supposedly affixed that the rats couldn't grip  
7 onto as much to the walls.

8 MR. KLINE: So you did that in all those  
9 areas?

10 MS. MENDELSON: We did it in all the areas.

11 MR. KLINE: Have you maintained that at this  
12 point?

13 MS. MENDELSON: We have not maintained it  
14 because the neighbors then asked us to take down  
15 the mesh wiring because some of the rats were  
16 getting caught in the mesh wiring, that were  
17 dying because of the bait boxes or powders that  
18 we were putting out and they were getting caught  
19 in the mesh wiring and creating a smell, so then  
20 some of the neighbors wanted us to take down the  
21 mesh wiring, so the mesh wiring is not currently  
22 up.



1           MR. SILVERSTEIN: What got caught in it? Did  
2 you say?

3           MS. MENDELSON: The rats. They asked us to  
4 install a fence to block off the trash area which  
5 we did. Then they've since asked us to take down  
6 the fence. They asked us to install double the  
7 amount of bait boxes even though our Ecolab and  
8 our pest control people that we've called  
9 throughout the years have asked us not to install  
10 bait boxes.

11          MR. KLINE: And why is that?

12          MS. MENDELSON: Because they said they just  
13 don't work in the alley. They work more in  
14 residential areas, not where there's restaurants  
15 with actual trash. So, they suggested other  
16 things but I have several adamant e-mails about  
17 bait boxes, so we went ahead paid for bait boxes  
18 to be put in the alley. There was a drain in the  
19 back that is not on our property -- it is part of  
20 the BB & T property, but it is in our trash area  
21 and it floods sometimes when there's rainstorms,  
22 and we have several e-mails from the neighbors

1 asking us to maintain it, which we do. We have  
2 unclogged it probably twice -- every two months  
3 we unclog that drain so it doesn't create a  
4 flooding issue and currently about once a month  
5 it's unclogged with a special pump that we  
6 bought, so we do that. One of the suggestions  
7 from the neighbors was to implement penalties for  
8 our employees that don't manage the trash  
9 properly because despite putting up signs in the  
10 alley sometimes the employees ignore them or  
11 don't pay attention to the signs, so we  
12 implemented a penalty for some of our employees  
13 if they don't put the trash out properly. The --  
14 we started power washing. We power wash the  
15 alley, once in the morning and once in the  
16 evening, and the evenings we were power washing  
17 at the end of the night was too late because it  
18 created too much of a noise, so now we do it  
19 about halfway through the day. That was another  
20 e-mail that we received from the neighbors.

21 MR. KLINE: And you bought a power washer?

22 MS. MENDELSON: And we bought a power

1 washer. We then proposed to the neighbors about  
2 paving the alley, because the alley used to be  
3 cobblestones, and we offered to pay for the alley  
4 at which point we couldn't pay for the alley  
5 because it's city property and we hired somebody,  
6 a local activist/lawyer who had experience  
7 dealing with the city to start a campaign to help  
8 get the alley paved so we could bring a trash  
9 compactor because that was one of the things that  
10 all of the neighbors had agreed that they really  
11 wanted was a trash compactor. They thought it  
12 would be better. So, we hired this lady to work  
13 to get a trash compactor so we could pave the  
14 alley and then shortly after I had a meeting with  
15 Jennifer Samolak and Linda Elliott who told us  
16 not to get a trash compactor, after we had put a  
17 deposit on a \$20,000 compactor.

18 MR. KLINE: Let's go back to the paving of  
19 the alley.

20 MS. MENDELSON: Yes.

21 MR. KLINE: So, were you able to get  
22 permission to pave the alley at some point?

1 MS. MENDELSON: Eventually we did.

2 MR. KLINE: Okay, and you offered to pay for  
3 some or all of that?

4 MS. MENDELSON: We offered to pay for the  
5 whole paving of the alley but we didn't need to.  
6 In the end this lady, with some of the neighbors  
7 and between us, all three groups, we were able to  
8 get the city to come and pave the alley.

9 MR. KLINE: Okay. And wasn't there also  
10 discussion of a retaining wall of some kind?

11 MS. MENDELSON: There's a retaining wall  
12 that abuts up against some of the neighbors'  
13 property that they wanted fixed and we offered to  
14 pay for part of it.

15 MR. KLINE: Okay. But then were you told  
16 that that was not a priority of the neighborhood  
17 in terms of rebuilding the wall?

18 MS. MENDELSON: Yes, we were told, and also  
19 the neighbors whose wall had no contact with us,  
20 about whether or not they wanted us to pay for  
21 part of the wall.

22 MR. KLINE: You started to talk about a trash

1 compactor. Let's go back to that.

2 MS. MENDELSON: Yes.

3 MR. KLINE: There were discussions, you  
4 almost bought --

5 MS. MENDELSON: Yes, I have several --

6 MR. KLINE: Let me finish my question first.

7 MS. MENDELSON: Sorry.

8 MR. KLINE: The fact that a trash compactor  
9 might be helpful in managing the trash, is that  
10 correct?

11 MS. MENDELSON: Yes, that's correct.

12 MR. KLINE: All right. And as a result of  
13 these discussions is that something you pursued?

14 MS. MENDELSON: It is.

15 MR. KLINE: And what did you do? You  
16 investigated it and what else did you do?

17 MS. MENDELSON: We were suggested to go to  
18 two or three different establishments that had  
19 trash compactors to look at how their trash --  
20 how they use their trash compactor. And we did.  
21 We went to an establishment that's up the street  
22 from us that has a trash compactor to see how it

1 is used, and as a result at the neighbors'  
2 suggestion we went ahead and ordered a trash  
3 compactor for the alley.

4 MR. KLINE: All right, and you said you  
5 placed a deposit on that?

6 MS. MENDELSON: We placed a deposit for the  
7 trash compactor so they could start building it.

8 MR. KLINE: How much of a deposit did you  
9 pay?

10 MS. MENDELSON: I think it was \$7000. It's  
11 a \$20,000 machine.

12 MR. KLINE: Okay, and then what happened?

13 MS. MENDELSON: Then we had a meeting with  
14 the ANC and a woman by the name of Linda Elliott  
15 who told us a trash compactor is not efficient  
16 because it is too noisy, that some of the  
17 employees instead of putting -- they have found  
18 that restaurants that have a trash compactor --  
19 instead of some of the employees putting the  
20 trash in the compactor because you have to press  
21 buttons and it takes too long, sometimes they  
22 just leave it on the side of the trash compactor

1 and there was a third reason which I'm not  
2 recalling right now, but --

3 MR. KLINE: So what did you do with respect  
4 to the trash compactor?

5 MS. MENDELSON: So we canceled the trash  
6 compactor.

7 MR. KLINE: You lost the deposit?

8 MS. MENDELSON: We lost the deposit and as a  
9 result we then went to a refrigerated trash area.

10 MR. KLINE: Okay, when you say you went to a  
11 refrigerated trash area, tell the board what that  
12 involves.

13 MS. MENDELSON: We built a refrigerated  
14 trash unit behind the restaurant to house some of  
15 the trash. That was an \$11,000 unit that we had  
16 ordered and was installed in January of this  
17 year.

18 MR. KLINE: Now, in your conversations with  
19 representatives of the neighborhood and the

20 ANC, you were instructed to look at other  
21 establishments and how they managed trash,  
22 correct?

1 MS. MENDELSON: Yes.

2 MR. KLINE: Did you see many refrigerated  
3 trash units?

4 MS. MENDELSON: No. There's no -- there was  
5 hardly anybody used a refrigerated trash unit.  
6 There was one restaurant on 8th Street.

7 MR. KLINE: Okay. And you said this cost you  
8 how much to do?

9 MS. MENDELSON: The unit itself was probably  
10 \$11,000 and all the work, the electrical --  
11 building that -- the water, the additional  
12 utilities charges probably cost us an extra \$3000  
13 to \$4000 a month to maintain that unit.

14 MR. KLINE: And have you continued to  
15 maintain it?

16 MS. MENDELSON: We have.

17 MR. KLINE: And you use that primarily for  
18 your trash storage?

19 MS. MENDELSON: We do. We fill that unit  
20 first and then any leftover trash and recyclables  
21 go into the BB & T area.

22 MR. KLINE: All right, so -- and these steps



1     that you took, this went on -- this was a series  
2     of steps that were taken from 2013 to 2016?

3             MS. MENDELSON:   Yes.

4             MR. KLINE:   All right.   And all the while you  
5     were trying to work with the ANC with respect to  
6     this issue?

7             MS. MENDELSON:   We were mainly working with  
8     David Garrison but our main contact really was  
9     Sylvia.

10            MR. KLINE:   Okay.

11            MS. MENDELSON:   Of the neighbors.

12            MR. KLINE:   Did there get to a point where  
13    you were simply frustrated with your efforts to  
14    try to work with the neighborhood on the trash  
15    issue?

16            MS. MENDELSON:   Yes, we became very  
17    frustrated.

18            MR. KLINE:   And what was the source of that  
19    frustration?

20            MS. MENDELSON:   The source of the  
21    frustration is that the neighbors would ask us to  
22    do one thing, which we then did, and then they

1    didn't like it or they wanted it changed or they  
2    wanted something else done, and it just kept  
3    going back and forth. A lot of the remedies that  
4    we used were at the suggestions of the neighbors  
5    but then they didn't want us to use.

6            MR. KLINE: So, did you at some point decide  
7    to take this matter into your own hands?

8            MS. MENDELSON: We did when we got the trash  
9    -- the refrigerated trash unit, yes.

10           MR. KLINE: All right, and didn't you also  
11   hire a director of operations?

12           MS. MENDELSON: We did. In October of last  
13   year we hired John Rettinger, who's our director  
14   of operations, and he came on board to maintain  
15   and manage all three restaurants in terms of  
16   customer service and food output and trash  
17   management is just one of the things that falls  
18   under his purview.

19           MR. KLINE: And although he was primarily  
20   handling the trash issue did you continue at  
21   least conversations with the ANC up until the  
22   spring or summer of this year?

1 MS. MENDELSON: We did. I had several  
2 meetings with Chander and the ANC and we went to  
3 some hearings and I remained the main contact for  
4 the neighbors until John came on, who then gave  
5 everybody his business card at one of the ANC  
6 meetings, so they could contact him directly with  
7 any trash issues that arose.

8 MR. KLINE: Now, at some point in your  
9 discussions with the ANC was there a suggestion  
10 that a meeting be set up with the owner or --  
11 with the owner and the tenant of BB & T bank  
12 premises are located?

13 MS. MENDELSON: Yes. The ANC wanted to talk  
14 with the BB & T owners to talk about the trash  
15 that was on their property.

16 MR. KLINE: And did you at some point learn  
17 that a meeting had been set up?

18 MS. MENDELSON: Yes, I did.

19 MR. KLINE: And did you suggest that it was  
20 appropriate for you to be at that meeting?

21 MS. MENDELSON: Yes, I did.

22 MR. KLINE: And were you at that meeting?

1 MS. MENDELSON: I was not.

2 MR. KLINE: And why were you not at that  
3 meeting?

4 MS. MENDELSON: I was told that I didn't  
5 need to be at that meeting because they were just  
6 going to try to kind of get a feel for BB & T and  
7 what they could do to help with the trash area.

8 MR. KLINE: From your standpoint, what was  
9 the only result that came from that meeting?

10 MS. MENDELSON: Previously to that meeting  
11 we had an agreement with BB & T to use their  
12 trash as a good neighbor -- you know, the owners  
13 of BB & T weren't using it and they were just --  
14 we have, you know, a handwritten agreement that  
15 we could just use the trash area. As a result of  
16 the meeting the BB & T with the ANC we're now  
17 being charged a monthly fee to use that area.

18 MR. KLINE: So, as a result of the meddling  
19 by the ANC, there wasn't any change in trash  
20 management practices, but you ended up with a  
21 monthly bill for the trash storage area, is that  
22 fair?

1 MS. MENDELSON: That's correct. And the  
2 landlord refused to help with the trash area at  
3 all other than impose a charge on us.

4 MR. KLINE: Now, from your standpoint, have  
5 you done everything reasonable to see that the  
6 area around your premises is kept free from  
7 litter?

8 MS. MENDELSON: I think we've gone beyond  
9 reasonable.

10 MR. KLINE: Are there any steps or anything  
11 that anyone -- or anything else that you were  
12 asked to do or were told to do that you simply  
13 refused to consider?

14 MS. MENDELSON: No.

15 MR. KLINE: With respect to trash management.

16 MS. MENDELSON: No. And we continue to  
17 maintain that.

18 MR. KLINE: Let me ask you something else.  
19 We have three businesses here, two of them are  
20 fast casual, they all have liquor licenses --

21 MS. MENDELSON: Mm hmm.

22 MR. KLINE: -- what's the percentage of

1 alcohol sales for Good Stuff Eatery, do you know?

2 MS. MENDELSON: Good Stuff Eatery is -- our  
3 sales is 3% alcohol sales.

4 MR. KLINE: Okay, so a pretty small  
5 percentage.

6 MS. MENDELSON: A very small percentage.  
7 It's people that are coming in -- I mean those  
8 fast casual restaurants have people coming in  
9 with kids, they kind of want to grab a beer. We  
10 close the establishment early so we don't deal  
11 with the bar element, which we don't like, you  
12 know, drunk people and so forth. And so the  
13 establishments close early. They're not a  
14 drinking destination.

15 MR. KLINE: And, We The Pizza, what's the  
16 percentage of alcohol sales there?

17 MS. MENDELSON: Five percent.

18 MR. KLINE: And what about Bernaise?

19 MS. MENDELSON: Bernaise is 18% alcohol.

20 MR. KLINE: 18%. Bernaise is a sit-down  
21 restaurant you testified to earlier, correct?

22 MS. MENDELSON: Bernaise is a sit-down

1 restaurant and we serve alcohol mainly, I'd say  
2 of the 18%, 16% of it is wine that people drink  
3 with their dinner because it's a steak and  
4 seafood restaurant.

5 MR. KLINE: Is it fair to say -- or, let me  
6 withdraw that. You serve on plates and you have  
7 silverware at Bernaise, correct?

8 MS. MENDELSON: Yes.

9 MR. KLINE: Is it fair to say that per square  
10 foot Bernaise generates much less trash than the  
11 other two establishments?

12 MS. MENDELSON: Yes.

13 MR. KLINE: And if the board were to take the  
14 extraordinary step of denying renewal of these  
15 licenses, is that going to materially change the  
16 trash output from either of the two fast casual  
17 restaurants given the small percentage?

18 MS. MENDELSON: It would not.

19 MR. KLINE: It would not.

20 MS. MENDELSON: It would not.

21 MR. KLINE: Okay. So, in terms of trash  
22 management it would likely help little with that,

1 is that fair?

2 MS. MENDELSON: That's fair.

3 MR. KLINE: That's it for the witness, no  
4 further questions for the witness.

5 CHAIRPERSON ANDERSON: I recognize the fact  
6 that it's 3:00 but I'm not going to allow -- we  
7 have to finish with this witness, so we need to  
8 cross examine on your side of the boardroom so  
9 Mr. Kline, after that I can, but I cannot allow,  
10 I can't do that in the middle of her testimony.

11 MR. KLINE: Okay.

12 CHAIRPERSON ANDERSON: So, you can cross  
13 examine her.

14 MR. JAYARAMAN: So, if somebody came up to  
15 you and said, 'hey, you know what, I think we  
16 need to add fish to your Good Stuff Eatery, we  
17 need to add some other item to one of your  
18 restaurants, what would you say? They want to  
19 change your menu.

20 MS. MENDELSON: I'm the one that decides the  
21 menu.

22 MR. JAYARAMAN: The output.



1 MS. MENDELSON: Mm hmm.

2 CHAIRPERSON ANDERSON: I did not hear that.

3 MR. JAYARAMAN: The question was --

4 CHAIRPERSON ANDERSON: I heard the question,  
5 I didn't hear the answer.

6 MS. MENDELSON: I decide what -- you know,  
7 it's a family business, so between my parents, my  
8 brother and I, we all brainstorm and decide what  
9 should go and off the menu.

10 MR. JAYARAMAN: Oh, okay.

11 MS. MENDELSON: And with John as well,  
12 because he's our director of operations and he's  
13 a chef.

14 MR. JAYARAMAN: So, just because somebody has  
15 some idea that they think you should do, you  
16 don't necessarily do it.

17 MS. MENDELSON: Well, we take it into  
18 consideration, like a brainstorming session.

19 MR. JAYARAMAN: You're not just going to  
20 automatically implement it. All right, okay, but  
21 somehow in the management of the business you  
22 seem to have -- you testified that you did all

1    this other stuff on a whim.  They asked you, so  
2    you did it.  They asked you and you did it.  
3    You're a smart businesswoman, person.  Why would  
4    just do it without doing any research?

5           MS. MENDELSON:  Well, we did several  
6    research on what they were asking us to do and we  
7    met several times with Sylvia on how to  
8    brainstorm the trash management issue.  The thing  
9    with our neighbors is that at the core of the  
10   business, we're a family-run business, and we all  
11   live on Capitol Hill, and we want to be good  
12   neighbors, we do a lot for the community, we want  
13   a better community, and we really try our best to  
14   work with neighbors if they have an issue of  
15   what's going on out back.  The other solution of  
16   not doing anything and ignoring e-mails or phone  
17   calls from the neighbors was not an approach we  
18   really wanted to take.  We originally wanted to  
19   sit down and meet with the neighbors, which I  
20   would argue in some cases resulted in all of  
21   these implementations of things.

22           MR. JAYARAMAN:  So, I want to touch briefly

1 on BB & T, the trash area. Do you own that  
2 property?

3 MS. MENDELSON: We do not.

4 MR. JAYARAMAN: Does BB & T own that  
5 property?

6 MS. MENDELSON: They do not.

7 MR. JAYARAMAN: They do not? So --

8 MS. MENDELSON: I shouldn't say they do not,  
9 I mean I think they -- I don't know what BB & T  
10 agreement has with the landlords of that, so  
11 maybe it's part of their property, I don't know.

12 MR. JAYARAMAN: Okay. So, who was it that  
13 has asked you to pay for that space?

14 MS. MENDELSON: The owners of the building.

15 MR. JAYARAMAN: Okay. So it's not, you don't  
16 get a bill from BB & T.

17 MS. MENDELSON: No.

18 MR. JAYARAMAN: Okay. So, there is some  
19 company, an organization or entity that actually  
20 owns that property who now you pay.

21 MS. MENDELSON: It's an older lady and her  
22 son, I think, and I've been in discussions with

1 her son.

2 MR. JAYARAMAN: So, how long have you been  
3 using -- paying for that space?

4 MS. MENDELSON: We started to pay --

5 MR. JAYARAMAN: For this owner lady and  
6 gentleman.

7 MS. MENDELSON: -- I guess this month.

8 MR. JAYARAMAN: This month?

9 MS. MENDELSON: This month.

10 MR. JAYARAMAN: This month. How long had you  
11 been using that space for trash storage?

12 MS. MENDELSON: Well, we had our, previous  
13 to John, we had a direct -- not a director, we  
14 had somebody that was in charge of one of our  
15 managers of trash management and he had an  
16 agreement with Mrs. Shulman who is the older lady  
17 who owns the building -- I don't know who -- if  
18 her son owns it or she owns it, but we had an  
19 agreement with her that we could use it to store  
20 the trash. And, as a result of your meeting with  
21 her son we are now paying rent for that trash  
22 area.

1           MR. JAYARAMAN: Well, previously you were  
2    using that space and not paying rent and you're  
3    claiming that you had permission to use that  
4    space and to do all the things that you --

5           MS. MENDELSON: We have documentation that  
6    we had permission to use that space.

7           MR. JAYARAMAN: I wish she was here, but she  
8    told me [inaudible 4:56:10] but she told me --

9           MR. KLINE: Objection to the testimony.

10          MR. JAYARAMAN: So, what are things that you  
11   do back there? What kind of -- what kind of  
12   trash dumpsters are there right now? You've got  
13   metal lids, plastic lids...what's there now?

14          MS. MENDELSON: They are metal lids,  
15   containers, and then there's a refrigerated trash  
16   unit, and there's recycling containers.

17          MR. JAYARAMAN: I mean specifically behind  
18   the BB & T building space.

19          MS. MENDELSON: Containers.

20          MR. JAYARAMAN: Containers. And could you  
21   describe those, briefly? They're metal, they  
22   have metal lids, they're --

1 MS. MENDELSON: Yeah, they're, I don't know  
2 the size, I'm guessing aluminum or steel?

3 MR. JAYARAMAN: Okay.

4 MS. MENDELSON: Containers, trash containers  
5 with aluminum lids and there's three that are  
6 recycling, I think.

7 MR. JAYARAMAN: Okay. So, this fence that  
8 you put in, this wire mesh, and all this work  
9 that you were doing in that area, did you get --  
10 was it -- did you get permission to do all this  
11 work? From the owner?

12 MS. MENDELSON: Yes, we had talked with BB &  
13 T because we had to build the mesh along the wall  
14 the BB & T is leasing from the building, so we  
15 first needed to get permission from BB & T we  
16 could put it along the area that they're leasing.

17 MR. JAYARAMAN: I have a question. You  
18 testified that they are not the owners of that  
19 property. But you got permission from somebody  
20 who doesn't own the property, to, you know, on a  
21 whim to do something that somebody you didn't  
22 know very well down the street told you to do.

1           MR. KLINE:  Objection on the grounds of  
2   relevance.

3           MR. JAYARAMAN:  The relevance is that on a  
4   business practice level they make all the  
5   decisions about how to operate their business,  
6   but all of a sudden the claim is being made that  
7   they are taking advice from non-experts who are  
8   just residents in the area and doing all these  
9   repairs and changes without any factual evidence  
10   or without any appropriate permission.

11          CHAIRPERSON ANDERSON:  You can ask the  
12   question.

13          MR. JAYARAMAN:  So, you said you paid \$7000  
14   for a compactor.

15          MS. MENDELSON:  Yes.

16          MR. JAYARAMAN:  Okay, again can you tell me  
17   what place you visited in the local area that had  
18   such a compactor that you say --

19          MS. MENDELSON:  So, Linda Elliott sent us to  
20   the trash manager that runs the building where  
21   District Taco is up on 7th and Pennsylvania  
22   Southeast and apparently all of the restaurants

1   that are there, the Tango District Taco,  
2   Peregrine, whatever, the P\_\_\_\_, all filter their  
3   trash into a trash compactor that is used that is  
4   at the back of their building.

5       MR. JAYARAMAN:   Is it on the outside or  
6   inside?

7       MS. MENDELSON:   It is the inside.

8       MR. JAYARAMAN:   So, it's inside the building.

9       MS. MENDELSON:   Yes.

10      MR. JAYARAMAN:   Right.

11      MS. MENDELSON:   Well, I think -- I don't  
12   know if it was inside or if they built the unit  
13   surrounding it but it's indoors.

14      MR. JAYARAMAN:   Thank you.   So, I don't see  
15   any evidence of having paid \$7000 supposedly to  
16   the compactor that you ordered.   What I do see  
17   from your evidence packet is that there's -- you  
18   were given two options.   Option one and option  
19   two, and it makes no indication that there was a  
20   deposit, or a deposit was required of any sort.

21      MR. KLINE:   Objection to the form of the  
22   question, objection to the consideration of facts



1 not in evidence.

2 CHAIRPERSON ANDERSON: Ask a different  
3 question, sir. Or ask a direct question, because  
4 I agree with counsel.

5 MR. JAYARAMAN: Okay. Why is there no proof  
6 in your evidence packet that you actually paid  
7 the \$7000.

8 MR. KLINE: Objection to the form of the  
9 question. She's testified to it. If he's got  
10 something to cross examine her with, he can  
11 certainly cross examine her but her testimony is  
12 evidence.

13 CHAIRPERSON ANDERSON: Sustained. It means  
14 that he's correct.

15 MR. JAYARAMAN: Okay. Let's move on. So you  
16 testified that until 2013 the dumpsters were in  
17 the alley, is that correct?

18 MS. MENDELSON: I don't remember what year  
19 the new owners of Co-C took over but it was  
20 whatever year the new Co-C owners took over and  
21 built the wall. 2013 is just the year that  
22 Bernaise was opened.

1           MR. JAYARAMAN: So, you're also claiming that  
2   there was an alley along that 3rd Street and not  
3   a driveway?

4           MS. MENDELSON: I guess it was a driveway,  
5   maybe technically more.

6           MR. JAYARAMAN: There's a driveway coming off  
7   of 3rd Street that you used --

8           MS. MENDELSON: That then goes into the  
9   alley?

10          MR. JAYARAMAN: -- being used by a trash  
11   company.

12          MR. KLINE: Objection. He's testifying.

13          MR. JAYARAMAN: I'm asking.

14          CHAIRPERSON ANDERSON: Sustained. Either ask  
15   a different -- you need to ask her -- ask her a  
16   question, okay? Ask her a question. Whatever  
17   you're asking her, just ask a question rather  
18   than --

19          MR. JAYARAMAN: So, is the trash company  
20   using this driveway to empty out your trash?

21          MS. MENDELSON: To empty out all the trash  
22   on that block.

1           MR. JAYARAMAN:   Okay.   On that block or your  
2   three establishments that you operate.

3           MS. MENDELSON:   No.   Ours, the cleaners, the  
4   Co-C and BB & T, so up to there.   And then part  
5   of the BB & T building there's two office spaces  
6   above it so their trash as well.

7           MR. JAYARAMAN:   So, when that was blocked,  
8   what was the path for trash to be removed?

9           MS. MENDELSON:   Down the alley of C Street.

10          MR. JAYARAMAN:   Okay.   Did you give any  
11   instructions to the trash companies about  
12   precautions to take in that alley?

13          MS. MENDELSON:   Yes.

14          MR. JAYARAMAN:   What were those?

15          MS. MENDELSON:   The way that the trash bins  
16   were lined up along the alley, we asked the trash  
17   -- at that time it was cobblestone, so the trash  
18   people would have a very difficult time moving  
19   the trash bins -- you know, on the cobblestone  
20   going back and forth to the truck that had to be  
21   parked on C Street.   It could not come up into  
22   the alley, so the trash people would literally

1 have to take them down the alley and then put  
2 them back.

3 MR. JAYARAMAN: Okay. What internal trash  
4 management practices did you have in place when  
5 you first moved all those into the alley?

6 MS. MENDELSON: Well, we had -- I don't  
7 understand what --

8 MR. JAYARAMAN: Were those the same as what  
9 you have today?

10 MS. MENDELSON: Probably, but we've added a  
11 lot.

12 MR. JAYARAMAN: Okay. So, there weren't  
13 nearly as significant as what you --

14 MS. MENDELSON: No.

15 MR. JAYARAMAN: -- are testifying that you  
16 have today.

17 MS. MENDELSON: Right.

18 MR. JAYARAMAN: Okay. I have no further  
19 questions at this time.

20 CHAIRPERSON ANDERSON: Do we have any  
21 questions by any board members? Yes, Mr. Short?

22 MR. SHORT: Good afternoon.

1 MS. MENDELSON: Good afternoon.

2 MR. SHORT: Ms. Mendelsohn it is?

3 MS. MENDELSON: Yes.

4 MR. SHORT: Okay. Ms. Mendelsohn, you live  
5 on Capitol Hill?

6 MS. MENDELSON: Yes.

7 MR. SHORT: So you understand the  
8 neighborhood has been through some very dramatic  
9 changes in the last several years.

10 MS. MENDELSON: Yes.

11 MR. SHORT: And when things change like that  
12 then we as business folks and other people in the  
13 neighborhood have to kind of change with it,  
14 don't we?

15 MS. MENDELSON: Absolutely.

16 MR. SHORT: So, you live how far from the  
17 restaurant?

18 MS. MENDELSON: Seven blocks maybe, ten  
19 blocks.

20 MR. SHORT: Seven blocks, okay. So, do you  
21 have any restaurants in the alley where you stay?

22 MS. MENDELSON: I do not.

1           MR. SHORT:   Okay.   Now, I just want to ask  
2   this question.   If you lived directly across the  
3   street from your three businesses, on the same  
4   alley, what is it that you would do or you would  
5   expect the business to do that's not happening  
6   now?

7           MS. MENDELSON:   That is not happening now?

8           MR. SHORT:   Yeah.

9           MS. MENDELSON:   To be honest with you I  
10   can't really answer that -- I mean, I can answer  
11   it in the sense that I think that we're doing the  
12   most that we can do.   Whether or not --

13          MR. SHORT:   Is there anything else you could  
14   do that you haven't done?

15          MS. MENDELSON:   I mean, I'm sure there's  
16   something.   Maybe I haven't thought about it, but  
17   I'm sure there's something.   But that's -- you  
18   know, that's the whole point I guess where I'm  
19   coming from is that I really feel that up until  
20   now we had a very open discussion with the  
21   neighbors on what we can be doing.   You know,  
22   Chander referenced, somebody asks you to do

1 something and you just do it. Well, the point is  
2 is that we do want to do something because we  
3 want to fix the issue. We just don't want it to  
4 persist. You know, where I live on Maryland  
5 Avenue, there are rats behind me, H Street which  
6 has restaurants three blocks behind me, but there  
7 are rats in my alley, and so I get together with  
8 my neighbors and figure out what we can all do  
9 together to fix it. It's not 100% a solution.  
10 There was a dead rat in my back yard just two  
11 months ago, so, but the point is to try to work  
12 together and try and mitigate it so it doesn't  
13 blow out of proportion or as frequent. So, I'm  
14 sure there are things that other people can  
15 suggest, but I really do feel that we've been  
16 working with the neighbors on trying to come up  
17 with a lot of solutions to the issue.

18 MR. SHORT: And I heard your testimony and I  
19 do feel that you are attempting to do something.  
20 But, we also know there's always a solution.

21 MS. MENDELSON: Of course.

22 MR. SHORT: The city has changed drastically.

1 I have relatives who live at 12th and Maryland  
2 following the block of 12th Street and they've  
3 been there for 60 years and I know the area quite  
4 well, and I've owned a few businesses on  
5 Pennsylvania Avenue. So, again, I've been there  
6 for 70 years. I remember the street cars right  
7 in the middle of Pennsylvania Avenue. Those days  
8 are gone and we are living in a new era in  
9 Washington D.C.

10 MS. MENDELSON: Absolutely.

11 MR. SHORT: And a lot of you are finding out  
12 either you adapt to the new Washington D.C.,  
13 something's happen that -- like for yourself.  
14 I'm just trying to find a way to look with you in  
15 your thinking to find some kind of way you can  
16 adapt to get along with those neighbors there on  
17 Capitol Hill.

18 MS. MENDELSON: I mean I have, if anything,  
19 you know, our efforts really do show you that we  
20 are open to suggestions. We are not -- this  
21 isn't a meeting where I just sat with the  
22 neighbors and I said 'well, it's going to cost us



1 money so we're not going to do it' or 'no, I  
2 disagree with that.' I mean, it is in every turn  
3 that we are trying to figure out how to do it.  
4 Now, am I going to be able solely to get rid of  
5 the rat problem in that alley? I am not. Pret A  
6 Manger, which does not have a liquor license,  
7 which is right next door to my restaurants, has  
8 rats crawling all over their trash. And they put  
9 their trash on top of the bins. And they don't  
10 have aluminum bins. And so, who's to -- what is  
11 it -- is it my rat, is it their rat?

12 MR. SHORT: If that was my neighbor and  
13 they're not closing those bins I would complain  
14 every day --

15 MS. MENDELSON: Right.

16 MR. SHORT: -- until somebody came out and  
17 wrote them a ticket every day.

18 MS. MENDELSON: Right.

19 MR. SHORT: But at any rate I'm not going  
20 over the things again, I think you get my point.  
21 Thank you very much for your testimony. Thank  
22 you, Mr. Chair.

1 MS. MENDELSON: Thank you.

2 CHAIRPERSON ANDERSON: Were you finished  
3 answering the question?

4 MS. MENDELSON: Yes.

5 CHAIRPERSON ANDERSON: Okay. Yes, Mr.  
6 Silverstein?

7 MR. SILVERSTEIN: Perhaps the rats are  
8 preferring your place because the food is  
9 supposedly that much better. Let me ask you this  
10 question. One of the problems that we see all  
11 over the place when it comes to trash is that  
12 just about every restaurant and every place that  
13 is serving alcohol serving, gets their supplies  
14 in cardboard boxes.

15 MS. MENDELSON: Yes.

16 MR. SHORT: And then those boxes are not well  
17 shaped when they're flattened to be placed in a  
18 trash bin and the trash bins then cannot be  
19 closed and they are, therefore, open to an open  
20 invitation to rats who love your highly regarded  
21 food. How -- is there anything that you know of  
22 that can be done? How can you make it better if,

1 in fact, it is a problem with your place and it  
2 seems to be with everyone. How can you handle  
3 cardboard better?

4 MS. MENDELSON: We have the same problem  
5 with the cardboard boxes because they overflow  
6 just by nature, because when you fold them they  
7 don't go into the containers properly and, you  
8 know, we get our cardboard -- our biggest two  
9 days are Mondays and Tuesdays and the containers  
10 usually are full on those two days until the  
11 trash, you know, until the recycling people come  
12 to take them away. I don't think -- I think a  
13 compactor would have been a good idea for that  
14 issue, the recycling, although it was brought to  
15 my attention that it is a noise issue for  
16 neighbors as well because we're all in a small  
17 alley. So that, I mean the trash compactor makes  
18 a lot of noise. So, I don't know if that's  
19 necessarily the best answer, I mean, we can get  
20 more recycling bins but then you get into the  
21 problem that because of the shutting of the alley  
22 on 3rd Street I have to put a recycling bin along

1 the alley along one of the neighbor's walls, and  
2 one of her complaints, which I completely agree  
3 with, is that the trash people just bang it up  
4 against her wall and they don't care, you know,  
5 to put it there carefully. So --

6 MR. SILVERSTEIN: Perhaps the protestants can  
7 come up with a suggestion for cardboard.

8 MS. MENDELSON: Yes.

9 MR. SILVERSTEIN: Perhaps -- we'll all hope  
10 to find something, but that's always an issue.

11 MS. MENDELSON: Yeah, absolutely.

12 MR. SILVERSTEIN: No further questions.

13 CHAIRPERSON ANDERSON: Ms. Miller?

14 MS. MILLER: Good afternoon.

15 MS. MENDELSON: Good afternoon.

16 MS. MILLER: So, you have one trash  
17 management for all of your restaurants? All of  
18 these restaurants?

19 MS. MENDELSON: Yes, we have one company  
20 that we use.

21 MS. MILLER: Do you treat them all the same  
22 place?

1 MS. MENDELSON: Pardon me?

2 MS. MILLER: Is all the trash in the same  
3 place?

4 MS. MENDELSON: There's two places now  
5 because we have the refrigerated trash unit which  
6 is behind Good Stuff Eatery, and then the BB & T  
7 space. So, there's two units where the trash is  
8 stored and then KMG, who's our trash company,  
9 will pull up to the end of the alley, the people  
10 will walk out and they'll remove trash from both  
11 those areas.

12 MS. MILLER: Okay, are there complaints  
13 related to both those areas or just one of the  
14 areas? Are there complaints?

15 MS. MENDELSON: I don't think there's a  
16 complaint for the refrigerated trash unit, I  
17 think it's just the BB & T area.

18 MS. MILLER: Have you ever had any violations  
19 for your trash?

20 MS. MENDELSON: I don't know. I think maybe  
21 once We The Pizza had one violation.

22 MS. MILLER: Is the situation that you still

1 have some rodents in the trash areas and in the  
2 alley?

3 Is that -- what's the existing, if you see an  
4 existing problem that you're still trying to  
5 address?

6 MS. MENDELSON: The existing issues I think  
7 are staffing issues. You know sometimes the  
8 staff goes out and they don't close the lid all  
9 the way down or KMG will come and they'll remove  
10 the bins and they'll leave a trail of trash all  
11 along the alley as they remove the bins and then,  
12 you know, one of our employees or John will come  
13 out, see it, and we'll clean it up, but that is  
14 an issue. Like they just come, they dump all the  
15 trash along the alley and then, you know, we have  
16 to come in and clean it. The recycling is  
17 certainly an issue on the two days when we get  
18 most of the deliveries because the liquor  
19 companies only deliver on those days. You know,  
20 the recycling bins are stacked.

21 MS. MILLER: Stacked, as in the containers  
22 aren't shut because they're so full those days or

1 are they just full?

2 MS. MENDELSON: Yeah, or sometimes, you  
3 know, the employee just doesn't deconstruct the  
4 box and it's just put on top and it's left with  
5 the box sticking out. Or also we have a grease  
6 trap back there and sometimes the employee will  
7 dump the grease and will get some on the side and  
8 then we'll have to call them to come out so you  
9 can power wash it and clean it and things like  
10 that.

11 MS. MILLER: So did you testify earlier that  
12 you agreed to have penalties for employees that  
13 didn't do what they were supposed to do?

14 MS. MENDELSON: We did. We started a  
15 penalty for the employees.

16 MS. MILLER: Okay, when did you start that?

17 MS. MENDELSON: So, maybe in 2014.

18 MS. MILLER: Okay.

19 MS. MENDELSON: It was, I think, it may be a  
20 few months or a year after we first met with  
21 David Garrison because we had tried all these  
22 other measures and then we realized that what we

1    were doing was really employee -- it was like an  
2    employee-based issue.

3            MS. MILLER:    Okay.

4            MS. MENDELSON:    Right?    Because you have a  
5    lot of -- or our businesses have a lot of -- I  
6    mean our businesses -- have a lot of hourly  
7    employees that really just didn't care, so  
8    whatever was easiest for them, you know, they  
9    would just kind of put the trash on top instead  
10   of taking the time to open it and throw it in, or  
11   the same with the grease trap, you know, if they  
12   put the grease in and some of it fell they  
13   wouldn't think to, like, go get it cleaned and  
14   things like that.

15           MS. MILLER:    So, is that penalty system  
16   working?

17           MS. MENDELSON:    No, it's not working at all.  
18   I mean, the employees are -- I mean, you know,  
19   it's -- first of all it's a fast casual business,  
20   it is hourly employees that are -- some have gone  
21   to high school, some have not, and they don't  
22   really care if we get fined, you know, they just



1 don't. And so as a result that's why we put the  
2 trash management under John and John goes out and  
3 tries to monitor as best he can. He's not in the  
4 alley all the time. Mistake happens, it  
5 overflows, there's things, but we try and catch  
6 it as quickly as possible. I mean, I think maybe  
7 two or three months ago, and I'm sure John will  
8 testify to this, KMG came out and literally just  
9 left pizzas and milkshakes all along the alley.  
10 And we cleaned it within a half hour of seeing  
11 it, but I mean it was there.

12 MS. MILLER: KMG, that's your trash company?

13 MS. MENDELSON: It is.

14 MS. MILLER: Have you looked at other trash  
15 companies?

16 MS. MENDELSON: We did. We looked into  
17 Bowie, which was another one, but Bowie couldn't  
18 meet the times that we needed the trash picked up  
19 because we go to twice a day pickup, especially  
20 in the summer. Their hours, and they came in --  
21 their quote came in -- there was a thing with  
22 Bowie, the trash pickup -- oh, and KMG gave us

1 the bins for the refrigerated trash unit, because  
2 the refrigerated trash is double bins so we can  
3 go up high.

4 MS. MILLER: So what's the lagging time  
5 between when the trash is in the alley and  
6 whether your employees pick it up?

7 MS. MENDELSON: Well, in the morning they  
8 get in and they start doing prep, so the pickup I  
9 think is before 8:00 or maybe around that time,  
10 and then we added the 2:00 p.m. pickup, so you  
11 know, the problem is at night, on busy nights,  
12 it's at 8:00 -- you know, we close the  
13 establishments at 10:00. So, it's from 10:00  
14 a.m. to when they pick up the next day. I think  
15 the refrigerated trash unit has helped  
16 tremendously with that because we're able to  
17 double stack the trash in that area.

18 MS. MILLER: Maybe I misunderstood you. I  
19 thought that you said that the trash company,  
20 when it picks up the trash, it ends up leaving  
21 scattered trash along the side of the alley and  
22 then your own employees end up cleaning that up.

1 MS. MENDELSON: Yes.

2 MS. MILLER: My question is, how soon do they  
3 do that?

4 MS. MENDELSON: Oh, I don't know. John  
5 would better know that question but it's fairly  
6 quickly. I mean, there's almost always an  
7 employee going out to put or do trash and so one  
8 of the things that we're trying to teach our  
9 employees is, if you see it you don't necessarily  
10 have to clean it but just come and tell somebody  
11 about it and then one of the managers will get  
12 somebody to clean it. But their whole thing is  
13 they don't want to clean it, right? It's like  
14 everything else. So they end up not saying  
15 anything so they don't have to be the ones that  
16 clean it. So, as a result, we've kind of formed  
17 committees within the restaurant where each  
18 restaurant takes turns on monitoring what's going  
19 on behind the alley and John is kind of in charge  
20 of that and so he will speak better to it, but  
21 when the trash company left John usually goes out  
22 to make sure and I know that he went out most

1 recently and it was maybe within 15 or 20 minutes  
2 and then we cleaned it.

3 MS. MILLER: Okay. Pret A Manger, to your  
4 knowledge do the neighbors have an issue with  
5 them with respect to trash?

6 MS. MENDELSON: I don't know. I don't think  
7 they do but they should because Pret A Manger is  
8 a corporate company and there's nobody on the  
9 block to really talk to, so you have to do a lot  
10 of work to get to the head of that company, and I  
11 don't know if the neighbors have contacted  
12 corporate Pret A Manger. The other issue is  
13 we're served by a drycleaner in between the  
14 restaurants that's been there for 40 years, maybe  
15 more, and that is a rat infestation. They have  
16 huge, you know a drycleaners, it's huge warmers  
17 downstairs in a steam room and all that, so we're  
18 constantly working with them also and they don't  
19 do anything to manage their rat -- I mean,  
20 obviously they don't have a liquor license and so  
21 we do a lot to help them manage their rat  
22 situation because it filters out into our

1 situation.

2 MS. MILLER: What do you do to help manage  
3 that situation?

4 MS. MENDELSON: Oh, we sent our Ecolab to  
5 the drycleaners -- our pest control company to  
6 the drycleaners.

7 MS. MILLER: To help them figure out how to -  
8 -

9 MS. MENDELSON: Oh yeah, we've, you know,  
10 they eat through the holes in the walls so we  
11 very oftentimes have to -- you know, we put mesh  
12 wiring and then we put cement to kind of block  
13 the holes, so they're not kind of coming in and  
14 out of that. We don't do anything with Pret A  
15 Manger.

16 MS. MILLER: You haven't made any effort to  
17 work with them on what sounds like a communal  
18 problem.

19 MS. MENDELSON: Pret A Manger?

20 MS. MILLER: Yeah.

21 MS. MENDELSON: No, we've reached out to  
22 Pret A Manger but they really don't care because

1 they don't have -- they just don't care, there's  
2 nothing for them to do, or there's nobody to hold  
3 them accountable, I should say, and they're a  
4 corporate company and I don't think they're  
5 really -- I don't think they're neighborhood  
6 friendly, let's put it that way.

7 MS. MILLER: Okay, and you know I want to ask  
8 you this because you're on the stand now and  
9 because I know the protestants will address this,  
10 but, you know, after hearing your testimony it  
11 sounds like you're doing everything you can do  
12 and beyond, what -- I mean, you know, it's kind  
13 of like what is this about? What aren't you  
14 doing that you know of that somebody wants you to  
15 do?

16 MS. MENDELSON: Mm hmm.

17 MS. MILLER: Are you talking with the  
18 community?

19 MS. MENDELSON: Yes, sure. So, I don't  
20 think we're not doing anything. I think we've  
21 rea -- I personally have reached an extreme  
22 frustration level, spent a lot of money on the

1 trash area. I think we probably do a better job  
2 than a lot of the restaurants on 8th or H or any  
3 of that deal with their trash area. I think that  
4 there is -- I think it doesn't matter what we do,  
5 there's going to be a problem in that alley.  
6 We're trying to make it less of an issue. I  
7 think the neighbors quite frankly just don't  
8 really care, like they just want us to keep  
9 going, keep going, keep going. I thought the  
10 refrigerated trash unit was a huge solution and  
11 as a result of that there are more issues that  
12 arise. But I want to be clear. We are trying to  
13 manage the trash situation. There are times that  
14 things go wrong, like the employees -- there is  
15 grease that drips off of the grease, the employee  
16 does leave the trash piled on instead of in the  
17 lids. I'm not saying we're perfect. I'm saying  
18 there are issues that the neighbors have and  
19 they're very valid issues, but my point to this  
20 hearing is that we probably respond faster than  
21 any other business in Washington, D.C. I would  
22 argue that, that we are so responsive when

1 something happens and we try and clean it up.  
2 Like if the grease trap is left and it's brought  
3 to our attention, we don't leave it for days or  
4 overnight. We try and address it, especially  
5 with, I feel like John coming on in the last year  
6 has made a huge difference because he's directly  
7 in charge of it, whereas before we had different  
8 managers, different restaurants, and it would get  
9 kind of a little bit a mess, but I think the last  
10 year specifically, you know, he's made a huge  
11 difference.

12 MS. MILLER: So, he's like a liaison for  
13 trash problems, like somebody notices rodents or  
14 grease, whatever, they can call him?

15 MS. MENDELSON: Yes.

16 MS. MILLER: Okay.

17 MS. MENDELSON: And before, they would call  
18 me. I mean, I have several e-mails from the  
19 neighbors of issues, but, you know, I'm not  
20 always in D.C. or I was traveling and sent it to  
21 a manager and then the manager would have to fix  
22 it and this, that and the other, and the manager



1   that was in charge of it, unfortunately we had to  
2   let him go, and so, you know.

3           MS. MILLER:   Okay.   Thank you.

4           CHAIRPERSON ANDERSON:   Mr. Alberti, do you  
5   have any questions?

6           MR. ALBERTI:   Yeah, I'm going to switch gears  
7   here.

8           MS. MENDELSON:   Sure.

9           MR. ALBERTI:   I'm going to go back to the  
10   settlement agreement because it's still bugging  
11   me.   So, you have, Bernaise has a settlement  
12   agreement which is fairly recent.   I think that  
13   was the last of these three establishments to  
14   have that.

15          MS. MENDELSON:   Yes.

16          MR. ALBERTI:   And so, it is a much more  
17   extensive paragraph section C, section 6, public  
18   space and trash, paragraph B is much more  
19   extensive, that paragraph is much more extensive  
20   than in the settlement agreements for Good Stuff  
21   and We The Pizza --

22          MS. MENDELSON:   Okay.

1           MR. ALBERTI: All right? And without reading  
2 it, I think you're probably aware that it's more  
3 extensive.

4           MS. MENDELSON: Okay.

5           MR. ALBERTI: Is that correct? Without --  
6 maybe not knowing the details?

7           MS. MENDELSON: Yeah, I don't know the  
8 details, I don't remember to be honest with you.  
9 I mean I did it with David Garrison in 2013.

10          MR. ALBERTI: Okay, so let's just for now say  
11 that it's much more extensive. All of these  
12 restaurants all have -- there's a common trash  
13 area, I mean, so when I look at the trash area  
14 and an investigator looks at the trash area, the  
15 trash there it has to assume it's coming from  
16 Bernaise, some of it's coming from Bernaise,  
17 right? They can't separate it out.

18          MS. MENDELSON: They can -- I mean Bernaise  
19 uses probably one of the bins in the trash area -  
20 -

21          MR. ALBERTI: But if I walked back there,  
22 could I tell?

1 MS. MENDELSON: No, no, no, no, no. I mean  
2 it would all be one, yeah, of course.

3 MR. ALBERTI: So, my point is -- I'm going to  
4 ask your opinion -- what is an investigator from  
5 ABRA to do if they go over -- go out and they see  
6 a trash violation?

7 MS. MENDELSON: Mm hmm.

8 MR. ALBERTI: All right? Bins open, trash is  
9 overflowing, and I'll get to this in a second but  
10 there are pictures from the protestants' PIP with  
11 the trash bin just piled high, lids not closed.  
12 Our investigator sees that and cites Bernaise.

13 MS. MENDELSON: Mm hmm.

14 MR. ALBERTI: Is that a violation for  
15 Bernaise? Because it's all three of them.

16 MS. MENDELSON: Well, we've had  
17 investigators come out and when they come out  
18 usually a busboy goes out and is actually asked  
19 to open the trash. So --

20 MR. ALBERTI: To open it?

21 MS. MENDELSON: Open the trash. Like open  
22 to see what it is inside. If it's like the pizza

1 place, if it's the Good Stuff place, if it's you  
2 know mussels or whatever it is. So, that's  
3 happened in the past. I mean I don't think  
4 that's the best system. I mean, I know the  
5 employee doesn't like it, but that's -- that has  
6 happened before.

7 MR. ALBERTI: I'm sure our inspectors,  
8 investigators don't enjoy it either. And you're  
9 right, it's not the best. So, have you seen the  
10 pictures from the protestants' exhibits.

11 MS. MENDELSON: I've seen -- they send me --  
12 they constantly send me photos.

13 MR. ALBERTI: Okay, so if I'm seeing trash  
14 piled high, I mean really piled high, I mean it's  
15 stacked up a good foot or more over the rim of  
16 the thing, what time of day would that be?

17 MS. MENDELSON: What time of day?

18 MR. ALBERTI: Yeah, can you pile it this  
19 high, at what time of day, or is that all the  
20 time?

21 MS. MENDELSON: No, it really -- so the  
22 business is really dependent on seasons and when

1 we're busy, so Good Stuff Eatery and We The Pizza  
2 are the busiest in the summer.

3 MR. ALBERTI: I have pictures from January.

4 MS. MENDELSON: Okay, so from January. It  
5 could be anytime. It could be after lunch, that  
6 maybe we had a really busy lunch and they filled  
7 up and the employees instead of putting it inside  
8 just got lazy and put it on top after lunch,  
9 knowing that the trash company was coming at  
10 2:00. I mean it could be -- there's so many  
11 variables -- it could be --

12 MR. ALBERTI: But some of these pictures are  
13 not on top, they're like full containers. I mean  
14 they put it on top and just left the lid open  
15 because it couldn't close.

16 MS. MENDELSON: Oh, they couldn't close,  
17 like the containers are full.

18 MR. ALBERTI: Yeah, yeah, yeah.

19 MS. MENDELSON: Yeah, I mean that's  
20 happened. There were two days that the trash, I  
21 mean, it's not often, but, I don't know, maybe it  
22 happens a dozen times a year where the trash

1 company doesn't come or it's a holiday and they  
2 were supposed to come and they didn't come.

3 MR. ALBERTI: Okay.

4 MS. MENDELSON: Or, we had, since we've had  
5 the refrigerated trash unit we had two days where  
6 it went down, where the refrigeration went down,  
7 and so we had to pile the trash in the alley and  
8 in BB & T because the unit went down. It was  
9 just like a hot -- and they had to come out and  
10 fix it and it had to be emptied.

11 MR. ALBERTI: And when was the refrigerated  
12 unit installed?

13 MS. MENDELSON: January, but -- sometime in  
14 January.

15 MR. ALBERTI: Of this year?

16 MS. MENDELSON: Of this year.

17 MR. ALBERTI: Of this year, okay. What  
18 percentage of your trash do you think goes into  
19 that refrigerated unit?

20 MS. MENDELSON: Seventy-five percent? Sixty  
21 percent.

22 MR. ALBERTI: Pardon?

1 MS. MENDELSON: Sixty percent maybe.

2 MR. ALBERTI: Okay. No further questions.

3 Thank you.

4 MS. MENDELSON: Yep.

5 CHAIRPERSON ANDERSON: I have a couple of  
6 questions I want to ask you because, maybe I'm  
7 confused or maybe I'm not following. The  
8 regulation says what reasonable efforts have you  
9 taken? And from my perspective, and I guess I  
10 could be wrong, so I need you to correct me, I  
11 hear a lot of excuses. I mean, I hear, you're  
12 saying the neighbors came and this is what -- the  
13 questions came and I'm responding, but it appears  
14 to me that you're -- it's more of a reactive  
15 mode. You've stated that 'I live on Capitol Hill  
16 and in my neighborhood there are rats, so I, in  
17 my neighborhood, I've gotten with my neighbors  
18 and we try to come up to a solution.' You stated  
19 that when you moved to this area that there are  
20 always rats there. So, if you know there's a  
21 problem, what proactive steps have you taken to  
22 make this a better -- to address this issue

1   rather than waiting for your neighbors to come  
2   and tell you that there's a problem?

3           MS. MENDELSON: Well, we've been open since  
4   2008, and we only heard from the neighbors in  
5   2013 when we opened the third restaurant back  
6   there. So, for all those years I think we were  
7   doing a very good job, or being proactive at  
8   managing the trash. In 2013, when we opened the  
9   third restaurant we were having, you know this  
10   one meeting with David Garrison and the neighbors  
11   but then resulted in, I mean, I have over 100 e-  
12   mails that I've gone back and forth with the  
13   neighbors and dozens of meetings with Sylvia,  
14   where we've sat down to figure out what to do  
15   next, so for me, some of it's been react -- the  
16   reactive part has definitely been the cleaning,  
17   like if there's trash on the floor we go and  
18   clean it. But a lot of the mash and the bait  
19   boxes and the aluminum lids have all been part of  
20   these brainstorming meetings that we've had with  
21   Sylvia specifically and myself to kind of figure  
22   out, okay well what is it that we do next?



1 What's the next thing that we can do?

2 CHAIRPERSON ANDERSON: You're stating that  
3 there's still problems, that employees are going  
4 back there, they are not -- they are not closing  
5 -- they are not disposing of the trash properly -  
6 -

7 MS. MENDELSON: Sometimes.

8 CHAIRPERSON ANDERSON: -- You also stated  
9 that the dumpster -- the trash truck when they  
10 come they leave half the trash in the alley. So,  
11 you know that these problems -- so, what  
12 proactive -- because you're saying to us 'well,  
13 you know, the manager might go back there  
14 sometime, we don't always go.' You know that  
15 they are problems. I need you to tell us what is  
16 it, because this is a decision the board -- the  
17 choice we have here is to take away your liquor  
18 license or maybe put some conditions or say that  
19 everything is fine. So, what is it that you're  
20 asking? From your perspective, how can you  
21 address these issues because you have testified  
22 that yes, there are problems. But I'm not

1   hearing that 'okay, this is what I'm proactively  
2   doing to address the problem.'

3           MS. MENDELSON: Oh, I'm sorry if I was  
4   misunderstood. I think that we are 100%  
5   addressing the issues as it arises. I can -- I  
6   mean, you know, I think in the exhibit there's a  
7   document that will show you that the trash unit  
8   comes and they leave trash down the alley and  
9   John takes photos and sends an e-mail to KMG  
10   saying, 'please make sure that the trash people,  
11   when they're going down the alley, don't leave  
12   the trash all over the ground. And he then  
13   proceeds to clean it up so it is a clean  
14   environment. I mean, I think we are doing a lot.  
15   Like, we still have Ecolab coming twice a week,  
16   we still have -- there are still bait boxes out  
17   there. I mean, for me, especially with John  
18   there, I think we are doing a lot to manage the  
19   trash situation. Things happen, I mean that's  
20   just normal. I can't control what the trash  
21   company's doing but what I can do, since it is in  
22   my alley, is come as quickly as possible and

1 clean it up. I mean, that, to me, is the  
2 solution that we're providing. And I'm open to  
3 any other suggestions, I really am.

4 CHAIRPERSON ANDERSON: You stated that it  
5 appeared that it was working until 2013 when you  
6 added a third restaurant, so therefore [inaudible  
7 5:32:56]. I guess my assumption is that it  
8 compounded the trash issue even more. That's why  
9 you're getting more complaints from the  
10 neighbors.

11 MS. MENDELSON: I think it compounded it,  
12 yeah, and I think that the restaurant that we  
13 overtook was Thai Roma and it was filthy and so I  
14 think just the sheer fact of digging all that up  
15 and all that construction also compacted it, just  
16 like when Co-C renovated to Pret A Manger we  
17 started getting more rats with their construction  
18 as well. I think it just, I mean I just think  
19 the sheer act of that renovation also compacted  
20 it.

21 CHAIRPERSON ANDERSON: Are there any other  
22 questions by any other board members?

1 MS. MILLER: I just want to get a  
2 clarification if that's okay. I thought I heard  
3 you say before that one of the problems was  
4 employees that don't do what they should do, that  
5 they're lazy or they put something on the side.

6 MS. MENDELSON: Yeah, sometimes, yeah.

7 MS. MILLER: And I thought you had said that  
8 you tried some program where you penalized the  
9 employees, but that wasn't working?

10 MS. MENDELSON: No.

11 MS. MILLER: And if not, why not?

12 MS. MENDELSON: I mean, I don't know. We  
13 started docking some people \$100, which for an  
14 hourly employee was a lot of money, and we had  
15 two people quit when we did it. So, then we went  
16 to doing \$25, and I mean, you know, they just  
17 don't do it. You know, some of them just don't  
18 do it.

19 MS. MILLER: Let me just ask you this other  
20 question, then. Did you try education?

21 MS. MENDELSON: Oh, yeah, we have weekly  
22 staff meetings, we have in our operations manual

1    which every employee gets and goes through,  
2    there's a trash management thing. We highlight  
3    it, for sure, because of the neighbors' issues  
4    and because they all feed into one area. I mean,  
5    yeah, I mean they're educated about it. We have  
6    several e-mails between management and staff of,  
7    you know, Sylvia will send a picture, 'hey this  
8    is happening, can somebody go take care of it?'  
9    I mean, so, yeah, there's a lot of awareness  
10   especially with the managers with the trash  
11   issue.

12           MS. MILLER: Okay. So neither education nor  
13   penalties have solved the problem. Did they help  
14   the problem?

15           MS. MENDELSON: Did it help the problem? I  
16   mean, there are signs out back, and there's signs  
17   inside the restaurant. 'If the trash is full,  
18   don't leave it on top of the container.' Yet,  
19   like last month, there was a photo of trash on  
20   the container, so it's depending on the employee  
21   and what time it is and if they're lazy or not  
22   lazy or whatever, so, I mean, there's signs, we

1 alert them to it, there's this penalty thing in  
2 place and yet somehow they still don't abide by  
3 it, so --

4 MS. MILLER: Okay, thank you. That's all.  
5 Thank you, Mr. Chairman.

6 CHAIRPERSON ANDERSON: You're welcome. Do  
7 you have any questions you want to ask her based  
8 on the questions that the board asked?

9 MR. JAYARAMAN: Yeah, I had a couple of  
10 questions. What are the hours that the director  
11 of operations is currently working?

12 MS. MENDELSON: Usually John gets in at  
13 6:00.

14 MR. JAYARAMAN: 6:00 a.m.?

15 MS. MENDELSON: A.m. and depending on the  
16 day or the time he'll leave 7:00.

17 MR. JAYARAMAN: So, is there anyone that  
18 manages the staff in the evenings, like usually  
19 like close-up and then there's clean-up time when  
20 the operations are supposed to end, and does that  
21 person have any responsibility with respect to  
22 trash management?

1 MS. MENDELSON: Yes, so John is in charge of  
2 five managers, maybe six now, and so each of the  
3 managers --there's a daytime and a nighttime  
4 manager -- and John oversees that person for Good  
5 Stuff, We The Pizza, and also Bernaise, and they  
6 are ultimately responsible and they report to  
7 John. If there's an issue in the morning, like  
8 the issue when the cooler went down, John gets  
9 there early enough that he can -- you know --  
10 he's the one who usually handles it, but normally  
11 it would be the morning manager that comes in and  
12 sees there's an issue and then they'll alert  
13 John.

14 MR. JAYARAMAN: But not somebody at night?

15 MS. MENDELSON: Oh, p.m. The same, it's the  
16 same a.m. and p.m. shifts.

17 MR. JAYARAMAN: Final question: What  
18 objections do you have with entering into a  
19 settlement agreement?

20 MR. KLINE: Objection as to relevance.

21 CHAIRPERSON ANDERSON: You objected. Do you  
22 have a response before I make a ruling?

1           MR. JAYARAMAN: I think, you know, all this  
2 good will that she's testified to are  
3 encapsulated in certain of these agreements and  
4 I'm asking why is there an objection to entering  
5 into such a settlement agreement?

6           CHAIRPERSON ANDERSON: Well, I'm not going to  
7 -- I'm going to sustain the objection. I think  
8 the issues that the party were unable to enter a  
9 settlement agreement, that's why it's before us  
10 to make a decision, so that's -- so I'll sustain  
11 the objection. You said that was your final  
12 question, so. Unless you want to rephrase it,  
13 but that was --

14          MR. JAYARAMAN: It's okay.

15          CHAIRPERSON ANDERSON: Mr. Kline?

16          MR. KLINE: Yes, Ms. Mendelsohn, in terms of  
17 the day to day operations and dealing with the  
18 employees, that's not you anymore, is it?

19          MS. MENDELSON: No, I don't do that anymore.

20          MR. KLINE: Okay. So, in terms of the  
21 problems that come or the issues that you talked  
22 about with employees, there's really someone



1 better to speak to that, isn't there?

2 MS. MENDELSON: Yes, John's in charge of the  
3 day to day operations of the restaurant and then  
4 on a micromanager scale, he manages two managers  
5 that know very specifically the ins and outs of  
6 the day to day operations.

7 MR. KLINE: All right. And the issues that  
8 you -- your frustration with employees, this  
9 isn't a daily occurrence is it?

10 MS. MENDELSON: No.

11 MR. KLINE: Okay, all right. We'll get into  
12 that with time. The first restaurant opened in  
13 2008.

14 MS. MENDELSON: Yes.

15 MR. KLINE: And you had a trash management  
16 plan, correct?

17 MS. MENDELSON: Yes.

18 MR. KLINE: And that's something -- you  
19 didn't have any input from neighbors to develop  
20 that, did you?

21 MS. MENDELSON: No.

22 MR. KLINE: And then in 2010, the second

1 restaurant opened.

2 MS. MENDELSON: Yes.

3 MR. KLINE: And you had a trash management  
4 plan.

5 MS. MENDELSON: Yes.

6 MR. KLINE: And you didn't have any  
7 complaints from anyone, did you?

8 MS. MENDELSON: No.

9 MR. KLINE: So, in terms of what you did  
10 without input from other people, that was all  
11 done by you and your mother and your father and  
12 your brother, correct?

13 MS. MENDELSON: Yes.

14 MR. KLINE: All right. So, the first time  
15 you heard issues from the community was in 2013.

16 MS. MENDELSON: Yes.

17 MR. KLINE: And was that before or after  
18 Bernaise opened?

19 MS. MENDELSON: I think it was during the  
20 opening maybe. I think maybe we'd been open a  
21 month.

22 MR. KLINE: Okay. Weren't there discussions

1 -- didn't you enter into a settlement agreement  
2 with respect to Bernaise?

3 MS. MENDELSON: Yes.

4 MR. KLINE: And the ANC supported your  
5 application didn't the?

6 MS. MENDELSON: Yes.

7 MR. KLINE: And in connection with that you  
8 were lauded for the steps that you had taken with  
9 respect to trash management, right?

10 MS. MENDELSON: Yes.

11 MR. KLINE: All right. And is it true that  
12 you've just sat back and waited for the  
13 neighborhood to tell you how to manage this  
14 problem?

15 MS. MENDELSON: No. That is not true.

16 MR. KLINE: Okay. But you've been receptive  
17 and cooperative, is that fair?

18 MS. MENDELSON: Yes, we've been working very  
19 closely with the neighbors.

20 MR. KLINE: Okay, that's all I have at this  
21 time.

22 CHAIRPERSON ANDERSON: Thank you, Mr. Kline.

1 You can step down. And I'll say that you're  
2 still under oath, as I'm not sure if you'll be  
3 recalled so I'll ask that you just -- you do not  
4 discuss the nature of your testimony with anyone  
5 else who is not in here today.

6 MS. MENDELSON: Okay.

7 CHAIRPERSON ANDERSON: All right, thank you.  
8 Mr. Jayaraman, do you still have a witness issue?

9 MR. JAYARAMAN: Yes, we would prefer to bring  
10 up the witness who needs to leave.

11 CHAIRPERSON ANDERSON: Mr. Kline, do you have  
12 any objection with them presenting their witness  
13 at this juncture?

14 MR. KLINE: Yes, I do. We would like to  
15 continue with our case.

16 CHAIRPERSON ANDERSON: What's the nature of -  
17 - tell me how you'll be prejudiced based on if  
18 this witness was to testify out of order.

19 MR. KLINE: How we'd be prejudiced?

20 CHAIRPERSON ANDERSON: Yes.

21 MR. KLINE: I'm not sure that's my burden. I  
22 mean, you asked if I object and we do. We've

1 heard from the one witness. We have another  
2 witness who will fill in the gaps. The board  
3 appears to have some questions and we're  
4 certainly anxious to proceed to do that.

5 CHAIRPERSON ANDERSON: Yes, sir?

6 MR. JAYARAMAN: Mr. Chair. The points that  
7 we've covered so far, this is a witness that is  
8 directly impacted on a day to day basis and I  
9 think it's important for the board to hear from  
10 this person. It's not somebody who can stay all  
11 evening long. I'll do my best not to extend  
12 comments from the witness because I'm also  
13 respectful for that person's time and the fact  
14 that she has to get to somebody who's waiting in  
15 the hospital at the moment.

16 CHAIRPERSON ANDERSON: I -- yes, Ms. Miller?

17 MS. MILLER: I'd just like to say that in the  
18 past we have accommodated witnesses in that  
19 manner and I don't see a prejudice to the  
20 applicant by hearing this witness who is  
21 supposedly directly impacted and I think having  
22 to go to the hospital is a good cause for taking

1 a witness out of order.

2 CHAIRPERSON ANDERSON: Mr. Short?

3 MR. SHORT: If I remember appropriately, Mr.  
4 Chair, I don't think Mr. Kline had a problem when  
5 you asked a first time, he said "fine." So, what  
6 has changed?

7 CHAIRPERSON ANDERSON: Mr. Alberti, do you  
8 wish to --

9 MR. ALBERTI: No, but if you're asking for my  
10 vote I would allow this witness to testify out of  
11 order.

12 CHAIRPERSON ANDERSON: Mr. Silverstein?

13 MR. SILVERSTEIN: Mr. Chair, I concur with my  
14 colleagues.

15 CHAIRPERSON ANDERSON: All right, Mr.  
16 Jayaraman, my personal opinion is that I would  
17 deny it, but since I've been influenced by my  
18 colleagues, so I'll allow it. I'll just let you  
19 know what my position is, is that this hearing is  
20 scheduled for 1:30. I appreciate that folks have  
21 taken their time to come here today and to  
22 testify, but it's somewhat unusual, because we're

1 going way out of order, and even if the board had  
2 had its witness testify today, your witness would  
3 not even -- I'm not sure what time your witness  
4 could testify. So, we have to -- when we have  
5 these hearings we have to let the witnesses know  
6 that there's -- it's going to be a long time.  
7 One of the reasons why we scheduled these  
8 hearings at this point, as I stated before, we  
9 are going to be here if this hearing takes until  
10 midnight, the board is going to stay here to  
11 midnight to complete the hearing. So, I'll  
12 allow. I appreciate your objection Mr. Kline and  
13 I'm not going to take the chair's prerogative and  
14 trump my colleagues. I try to be more inclusive,  
15 so we'll allow his witness to testify, but I do  
16 hear your objection. Okay, you can call your  
17 witness, sir.

18 MR. JAYARAMAN: Thank you, Mr. Chair. I'd  
19 like to call Jocelyn Hong.

20 CHAIRPERSON ANDERSON: Can you raise your  
21 right hand, please, Ms. Hong? Do you swear or  
22 affirm to tell the truth and nothing but the

1 truth?

2 MS. HONG: Yes, I do.

3 CHAIRPERSON ANDERSON: Okay, have a seat  
4 please.

5 MR. JAYARAMAN: Ms. Hong, could you briefly  
6 tell us where in proximity to the three  
7 establishments, your property is?

8 MS. HONG: Yes, I own the townhouse which is  
9 directly behind the three properties.

10 CHAIRPERSON ANDERSON: Can you speak up?

11 MS. HONG: Sorry, Hi. I own --

12 CHAIRPERSON ANDERSON: Pull the mic closer to  
13 you and speak up, please.

14 MS. HONG: I own the townhouse which is 306 C  
15 Street, so it is directly next to the alley and  
16 behind the three establishments.

17 MR. JAYARAMAN: To clarify, this is the alley  
18 that runs from C Street to the rear area of these  
19 establishments and you are on the east side of  
20 that alley, is that correct?

21 MS. HONG: That's correct.

22 MR. JAYARAMAN: Okay. Would you please tell



1 us -- to start with, what were the conditions of  
2 the property and what was the property used for  
3 before these establishments were there.

4 MS. HONG: My property or their property?

5 MR. JAYARAMAN: Your property.

6 MS. HONG: My property. So, I bought the  
7 house in 1994 and we gutted it and renovated it  
8 and then I had a baby in 1999 and we moved out to  
9 the suburbs and decided to rent it.

10 MR. JAYARAMAN: And, so then, to give a  
11 geographic context, it's within how many blocks  
12 of the Capitol would you say?

13 MS. HONG: Two blocks to the Capitol.

14 MR. JAYARAMAN: And so, since that point,  
15 since you moved to another area, what is your use  
16 of that property currently for yourself and  
17 family?

18 MS. HONG: So, I rent it out to people that  
19 want to rent a place in D.C.

20 MR. JAYARAMAN: Has it been rented  
21 continuously for the most part?

22 MS. HONG: It was up until a certain point.

1           MR. JAYARAMAN:   Okay.   Could you please  
2   explain what were the circumstances of the issue  
3   that arose that caused that breakage of regular  
4   rental?

5           MS. HONG:   Well, the --

6           MR. KLINE:   I'm going to object on the  
7   grounds of relevance.   I think we're talking  
8   about whether the licensee takes -- makes  
9   reasonable effort to control the litter around  
10   its environs and it sounds to me like we might be  
11   getting into real property values which was not  
12   raised as a protest issue and this seems to be  
13   far afield as to the licensee's efforts to take  
14   reasonable measures.

15          CHAIRPERSON ANDERSON:   Well, I mean, do you  
16   have a response?

17          MR. JAYARAMAN:   This is about peace, order  
18   and quiet, and the ability of a neighborhood, a  
19   property owner, to use that property peaceably,  
20   use that property whether it's for rental reasons  
21   or for other reasons is germane to this argument  
22   and we should be able to hear from the witness

1 about the real impact of their operations on this  
2 person's real property.

3 CHAIRPERSON ANDERSON: All right. I'm going  
4 to overrule the objection, but I just want to  
5 make sure, though, that when -- the questions you  
6 ask, that they're germane to the issues in this  
7 case. So I'll give you some leeway but not a  
8 whole lot.

9 MR. JAYARAMAN: Okay. Have you had  
10 complaints from individuals who've rented your  
11 property with respect to the establishments that  
12 are before us today.

13 MS. HONG: Yes. I had complaints on a fairly  
14 daily basis about the trash, the trash overflow,  
15 and then the subsequent rats and trash that would  
16 go over the fence because they would miss the  
17 trash cans and also open pizza boxes and pizza  
18 and litter that just was in the alley attracting  
19 rats.

20 MR. JAYARAMAN: Okay. So, this was an  
21 ongoing issue that you've identified, and was  
22 this a problem for your renters as well?

1 MS. HONG: Yes, my renters would complain  
2 that they couldn't open the door because of all  
3 of the flies that would rush in and that there  
4 was a continual smell of odor, grease, and odor,  
5 urine and feces, and they would spend a lot of  
6 their time cleaning up the feces and the urine  
7 that was on the front porch and on the back  
8 porch.

9 MR. JAYARAMAN: What would you say was the  
10 cause of that?

11 MS. HONG: Well, it was the rats that were  
12 going into the yard.

13 MR. JAYARAMAN: So, what did you have to do  
14 in order to address that and to reduce the impact  
15 on your renters?

16 MS. HONG: So, I actually tried to do things  
17 myself. I completely got rid of all of the dirt  
18 in a planter and filled it up with rocks. I put  
19 rocks in my front yard with just a couple little  
20 shrubberies. We put netting around the entire  
21 periphery of the fence and then I put a one-foot  
22 metal flashing across the bottom of the fences

1 and then I put a slate patio into the -- I had a  
2 slate patio installed into the entire back yard.

3 MR. JAYARAMAN: So your back yard is right up  
4 against their trash area that we've been  
5 discussing, is that correct?

6 MS. HONG: Yes, yes. And then there's been a  
7 lot of property damage from the trucks that  
8 deliver things.

9 MR. JAYARAMAN: Okay, could you say a little  
10 bit more about that, please?

11 MS. HONG: Well, when -- when --

12 MR. KLINE: Objection as to relevance. What  
13 does property damage from third party vendors  
14 have to do with this proceeding?

15 MR. JAYARAMAN: Trash management as a whole  
16 is not only the storage of trash but also the  
17 removal of trash from the area that they have  
18 selected to store the trash. To the extent that  
19 there's the resulting of the removal of that  
20 trash causes property damage is relevant to this  
21 case.

22 CHAIRPERSON ANDERSON: Overruled. Go ahead,

1 answer the question.

2 MS. HONG: So, yes, when Bernaise was being  
3 constructed one of their contractors completely  
4 bowled over my retaining wall and fence and  
5 resulted in close to \$3000 in damage. And then,  
6 on a fairly regular basis, the trash trucks would  
7 scrape and run into the side of my building  
8 causing structural damage.

9 MR. JAYARAMAN: What has been the impact of  
10 the rodents on your ability to rent the property?

11 MS. HONG: Very bad.

12 MR. KLINE: Objection, relevance. Goes to an  
13 issue of real property values which is not what  
14 we're here to talk about according to the protest  
15 that was filed.

16 MR. JAYARAMAN: Mr. Chair, this, it has to do  
17 with the rodents which are attracted by the trash  
18 which is directly behind this person's property.  
19 And we're trying to establish if there's a  
20 connection between the trash, the rodent  
21 infestation and the impact -- negative impact on  
22 the surrounding neighbors.

1           MR. KLINE: Mr. Chair, this is -- this case  
2 is not about rodents, this is about renewal of an  
3 alcoholic -- or three alcoholic beverage  
4 licenses, and the standard in the statute states  
5 reasonable measures, reasonable care to deal with  
6 the issues and this is so attenuated from the  
7 alcoholic beverage control law which is about the  
8 sales and serving of alcohol. And I conceded at  
9 the outset that, yes, trash management is an  
10 issue to the limited extent that it is dealt with  
11 in Title 25 of the D.C. code but to go on all  
12 these other issues related to property damage and  
13 what have you, this is far afield from the  
14 regulation of alcohol.

15           CHAIRPERSON ANDERSON: I'll sustain the  
16 objection. So, ask a different question.

17           MR. JAYARAMAN: Okay. How has the poor trash  
18 management of the trash area impacted your  
19 property?

20           MS. HONG: Again, the trash management has  
21 attracted a lot of rodents and the trash that has  
22 gone over my fence and along the sides of the

1 alley has created a health hazard and not just  
2 rodents, but you know, birds and other animals.

3 MR. JAYARAMAN: Have you brought this to the  
4 attention of the applicant one or any of the  
5 three?

6 MS. HONG: Yes, I did.

7 MR. JAYARAMAN: When was the first time you  
8 made contact that you can recall?

9 MS. HONG: Well, my tenants actually went and  
10 talked to the managers of each restaurant  
11 individually and did not get any relief, and then  
12 I was directed towards Micheline and sent her a  
13 letter asking her to please keep better care of  
14 her -- of her trash, and to keep better care of  
15 her contractors from running into my house.

16 MR. JAYARAMAN: Okay. What kind of results  
17 were achieved as a result, if any, of your  
18 contact?

19 MS. HONG: We ended up getting a very  
20 threatening letter from the attorney basically  
21 saying that if we were to talk to anybody about  
22 what was happening they would file a lawsuit



1    against us with regard to defamation and then  
2    there was a meeting in person with Micheline  
3    where she said that she was not responsible for  
4    what the contractors did because she does not  
5    control them and that what happened in the alley  
6    is that I should just be behind them paving the  
7    alley because that would solve all of the  
8    problems and I made the point that if the alley  
9    were not being used the way it was then there  
10   would be no -- you know, there would be no  
11   destruction of my property, obviously, it's an  
12   actuarial issue that if you have no one coming  
13   into the alley then obviously you would not have  
14   big, huge trucks running into it. And she did  
15   not like that answer.

16           MR. JAYARAMAN: So, has the transport of  
17   these trash cans directly impacted your  
18   property?'

19           MS. HONG: Yes, yes. I've sustained close to  
20   --

21           MR. KLINE: Objection. Same objection,  
22   continuing objection as to this is not a real

1 property values case.

2 CHAIRPERSON ANDERSON: Yes, sir?

3 MR. JAYARAMAN: I'll withdraw. So, with  
4 respect to the trash management, have you seen  
5 over the years that you've owned that property,  
6 has the situation gotten better or has it gotten  
7 worse?

8 MS. HONG: It's considerably worse because  
9 the restaurants that were previously there were  
10 very unpopular, and so they didn't have the same  
11 kind of trash management issues because people  
12 weren't eating there because they knew about the  
13 rat problem.

14 MR. JAYARAMAN: Do you think there's -- that  
15 the food is attracting the rodents to that area?

16 MS. HONG: And the grease.

17 MR. KLINE: Objection.

18 MS. HONG: The grease.

19 MR. KLINE: She doesn't have the expertise to  
20 say what's attracting the rodents to that area.  
21 She hasn't been qualified as an expert. This  
22 isn't about what attracts rats.

1 MR. JAYARAMAN: The smell attracts rats if  
2 the winds are [inaudible 5:57:02].

3 CHAIRPERSON ANDERSON: I'll overrule the  
4 objection. She can answer the question.

5 MR. JAYARAMAN: So you've stated that it has  
6 gotten worse. Could you say a little bit about  
7 what you think the cause of that additional  
8 problem with respect to trash management you  
9 believe has come from?

10 MS. HONG: Yes, excessive overflowing trash  
11 and open containers and bags that are out that  
12 have food in it that rats can chew through.

13 MR. JAYARAMAN: Have you ever mentioned your  
14 concerns to either employees or to the owner?

15 MS. HONG: Yes.

16 MR. JAYARAMAN: To the -- have you mentioned  
17 anything to the employees there?

18 MS. HONG: Yes, we have. We've asked them to  
19 please continue to put the trash away.

20 MR. JAYARAMAN: And what has been the  
21 reaction from them? Do you recall?

22 MS. HONG: They just ignore us or they tell

1 us that they'll try to take care of it and then  
2 the next day I get an e-mail from my tenant  
3 saying 'oh, there's more bags over the fence  
4 again.'

5 MR. JAYARAMAN: So, would you say that this  
6 is counter to what the applicant has testified  
7 that it's occasional than more fairly regular  
8 instances of overflowing trash?

9 MS. HONG: It appears to be fairly regular.

10 MR. JAYARAMAN: Okay. What would you say --  
11 how do we solve this? We're all still neighbors  
12 here. So, what do you think are good solutions  
13 to address this trash issue that is continuing to  
14 persist?

15 MS. HONG: Well, I think that there have been  
16 some great suggestions talked about in the  
17 settlement agreement and what Starbucks has done.

18 MR. KLINE: Objection as to referencing the  
19 settlement agreement.

20 MR. JAYARAMAN: Not ours.

21 CHAIRPERSON ANDERSON: Well, I think you're  
22 asking the question is that you're asking her

1    what she thinks are good solutions and so if you  
2    know what they are without saying a settlement  
3    agreement, if you can state, because the board  
4    does not -- we have not seen a settlement  
5    agreement so you're asking what is it --

6           MS. HONG:   Sure, I think if there was indoor  
7    storage at the trash that that would cut down  
8    significantly the rodent problem and the odors.

9           MR. JAYARAMAN:   So, you said that you believe  
10   that indoor trash storage would be a good  
11   solution. Have you seen another place that uses  
12   that where it seems to have worked?

13          MS. HONG:   No I haven't seen it myself.

14          MR. JAYARAMAN:   Okay. With respect to the  
15   use of that, the use of that trash storage area,  
16   do you think it's appropriate for them to be able  
17   to use one trash area for three restaurants?

18          MR. KLINE:   Objection as to what she thinks  
19   is appropriate.

20          MR. JAYARAMAN:   If it's sufficient for the  
21   amount of trash they generate.

22          MR. KLINE:   Objection, she doesn't have the

1 expertise to reach that conclusion.

2 CHAIRPERSON ANDERSON: Sustained. I mean  
3 that you need to move on and ask her a different  
4 question or rephrase the question or ask her a  
5 different question.

6 MR. JAYARAMAN: Okay. The trash management  
7 issues that they claim that they -- have  
8 testified to that do occur, do you think they are  
9 doing as much as they can?

10 MS. HONG: I understand that they could do  
11 more and I think I have to look at the end result  
12 to say is there an increase or decrease in the  
13 amount of trash that my tenants are reporting and  
14 there are some days when there isn't as much  
15 trash and there are other days when there is, so  
16 I'm not sure if I can give you the answer to  
17 that.

18 MR. JAYARAMAN: Okay. Do you think they're  
19 complying with the trash management regulations  
20 as they've been laid out in regulations?

21 MR. KLINE: Objection. Calls for a legal  
22 conclusion.

1 CHAIRPERSON ANDERSON: Sustained. Meaning  
2 that you can't ask her that question. She  
3 doesn't know what the regulations are. We  
4 haven't stated them. We don't know what the  
5 regulations are. There's not presentation.  
6 That's one of the reasons why I sustained the  
7 objection.

8 MR. JAYARAMAN: Mr. Chair, I did specifically  
9 read in my opening statement the specific  
10 provision that we claim that they're violating.

11 CHAIRPERSON ANDERSON: But I don't know if  
12 she was --

13 MR. JAYARAMAN: That's section 25-726(a).

14 CHAIRPERSON ANDERSON: Why don't you ask her  
15 a specific question about what it is that -- what  
16 it is that you believe that the regulation states  
17 and whether or not she believes that they're  
18 complying with what the regulation states.

19 MR. JAYARAMAN: Have you noticed that the  
20 area where the trash is put is free of litter all  
21 the time?

22 MS. HONG: No.

1 MR. JAYARAMAN: Have you noticed when there  
2 is litter on the ground in that area?

3 MS. HONG: Yes.

4 MR. JAYARAMAN: Okay. Do you think that they  
5 have reasonable measures to control the trash?

6 MS. HONG: What's the volume? I think they  
7 have reasonable measures if you're dealing with  
8 less volume. But I think that if you've got a  
9 larger volume it's hard because it's overflowing.

10 MR. JAYARAMAN: Okay. I will hold my  
11 questions for the time being.

12 CHAIRPERSON ANDERSON: It's not -- you can't  
13 hold your questions for the time being, sir.

14 MR. JAYARAMAN: That's all.

15 CHAIRPERSON ANDERSON: You can't hold  
16 questions because Mr. Kline is going to ask  
17 questions, the board's going to ask questions and  
18 your next chance to ask questions is based on the  
19 questions Mr. Kline asks or the questions that we  
20 ask. You cannot break new ground, so if you have  
21 other questions that you want to ask you need to  
22 ask them now because Mr. Kline might object and I



1    would have no -- I would have to sustain his  
2    objection, so if you have no further questions  
3    then we will move on to have Mr. Kline ask  
4    questions.

5           MR. JAYARAMAN:   Have you communicated with  
6    either the establishment or anybody have, for  
7    example, Ms. \_\_\_\_\_ Smith in our exhibits about  
8    trash overflows behind your property?

9           MS. HONG:   Yes.   She is my diplomat that  
10   moved out after ten months because she couldn't  
11   handle it anymore.

12          MR. JAYARAMAN:   Okay, how many times have  
13   your tenants expressed to you that trash  
14   management is the cause of them leaving the  
15   rental unit?

16          MS. HONG:   I don't know that they put it in  
17   those terms, I mean, really, it was mostly they  
18   fled because they felt like they were losing the  
19   war on rats.

20          MR. JAYARAMAN:   Okay.   So when you have  
21   brought this to their attention have they taken  
22   immediate action?

1 MS. HONG: Well, Micheline's a very sweet  
2 person and has said, you know, she would like to  
3 be helpful and so after an initial meeting we had  
4 in December I was willing to wait and see what  
5 kind of measures would be taken and there was  
6 some initial flurry of activity but then, you  
7 know, things kind of go back to the way they  
8 were.

9 MR. JAYARAMAN: So, there was -- you're  
10 saying there appears to be an initial attempt to  
11 support the community but then again it degrades  
12 to where it's not controlled.

13 MR. KLINE: Objection to the phrase, "support  
14 the community." That's not what this case is  
15 about.

16 CHAIRPERSON ANDERSON: Rephrase the question,  
17 sir.

18 MR. JAYARAMAN: So, what you're saying is  
19 they've taken some actions to initially address  
20 your concerns --

21 MS. HONG: Mm hmm.

22 MR. JAYARAMAN: -- but then have allowed

1 those conditions of the trash management to  
2 disintegrate into poor trash management, is that  
3 right?

4 MS. HONG: Yes, that's correct.

5 MR. JAYARAMAN: That's all the questions.

6 CHAIRPERSON ANDERSON: Mr. Kline.

7 MR. KLINE: Ms. Hong, how many times have you  
8 contacted Mr. Renninger about problems related to  
9 trash management?

10 MS. HONG: I haven't contacted him at all.

11 MR. KLINE: Okay, so do you know who he is?

12 MS. HONG: No, I don't know who he is.

13 MR. KLINE: You have no idea who he is?

14 MS. HONG: Now I know who he is because of  
15 the testimony that she gave today.

16 MR. KLINE: Okay, but before today you didn't  
17 know who he was?

18 MS. HONG: No.

19 MR. KLINE: All right.

20 MS. HONG: Or, actually I did, but I didn't  
21 contact him.

22 MR. KLINE: Okay. You testified that there

1     was damage to your property when Bernaise was  
2     being constructed by a contractor, correct?

3             MS. HONG:   Yes.

4             MR. KLINE:   And that didn't relate to trash  
5     management at all, did it?

6             MS. HONG:   Unless you consider the rubble  
7     from my wall to be trash.

8             MR. KLINE:   Okay, but it was not a trash  
9     truck was it?  It was a contractor, correct?

10            MS. HONG:   It's the name Robelina Transport.  
11    I don't know what they do.  I don't know if they  
12    also haul trash.  I'm unaware, since they never  
13    returned my phone calls.

14            MR. KLINE:   Okay.  Ms. Mendelsohn gave you  
15    information how to contact them, correct?

16            MS. HONG:   She said that she would try to get  
17    in touch with them for me.

18            MR. KLINE:   Didn't she also give you the  
19    information as to how to contact them?

20            MS. HONG:   Yes, I had that contact  
21    information.

22            MR. KLINE:   And you testified previously that

1 it was her position that they had done the damage  
2 to your wall, right?

3 MS. HONG: It was her position that she would  
4 get me the contact information for them.

5 MR. KLINE: Right. And you suffered a loss  
6 of \$3000 approximately, correct?

7 MS. HONG: Just on that wall, not on the  
8 other damage that I've --

9 MR. KLINE: And you wanted Ms. Mendelsohn or  
10 the licensees to pay you for that, didn't you?

11 MS. HONG: I did, yes.

12 MR. KLINE: And that colors your testimony  
13 here today, doesn't it?

14 MS. HONG: No, not really --

15 MR. JAYARAMAN: Objection.

16 MS. HONG: 'Cause if you see my other e-  
17 mails, I said 'hey, I'm not asking you to  
18 reimburse me the \$17,000 that I've lost on the  
19 whole, I'm just saying on a going forward basis  
20 would you please take better care of your  
21 contractors and your trash problem? Or, you  
22 know, the rat problem. I didn't call it the

1 trash problem, I said the rat problem.

2 MR. KLINE: In fact there's always been a rat  
3 problem there, hasn't there?

4 MS. HONG: Not to the extent that it  
5 increased with Bernaise, We The Pizza and Good  
6 Stuff Eatery.

7 MR. KLINE: And the reason that it increased  
8 is because the restaurants that they replaced  
9 were failing restaurants that no one went to and  
10 didn't generate any trash, correct?

11 MS. HONG: I'm not going to comment on that,  
12 I'm just going to say --

13 CHAIRPERSON ANDERSON: Ma'am, when someone  
14 says an objection that's your, that is -- just  
15 say.

16 MS. HONG: Oh, I'm sorry. I'm sorry, I'm  
17 not an attorney.

18 MR. JAYARAMAN: I object, she's not an expert  
19 to determine, you know, the popularity or lack of  
20 popularity of a restaurant.

21 MR. KLINE: I'll withdraw the question and  
22 rephrase it.

1 MR. JAYARAMAN: Thank you.

2 CHAIRPERSON ANDERSON: Go ahead, sir.

3 MR. KLINE: I'm reading from an e-mail that  
4 you sent on October 5th of 2014 at 9:21 p.m.  
5 "Yes, it is true, there has always been a rat  
6 problem. But the fact that the Greek restaurant  
7 and Thai Rama were unpopular means there was not  
8 as much trash for them to feast upon." Do you  
9 remember writing that e-mail?

10 MS. HONG: Yeah, I'm looking for it right  
11 now.

12 MR. KLINE: All right, so in fact, you seem  
13 to be qualified and to give your opinion as to  
14 why it was that there was a greater problem with  
15 rats because these restaurants are more popular.

16 MS. HONG: I think I'm always qualified to  
17 give an opinion. I'm just told that here I'm not  
18 allowed to give certain opinions.

19 MR. KLINE: Okay, all right. In fact, and I  
20 can show it to you if you like, that was what you  
21 said on that day, correct?

22 MS. HONG: It is what I said that day, yes.

1           MR. KLINE: All right. In addition, your  
2 tenants indicated, or at least one of your  
3 tenants indicated, that yeah, there were some  
4 rats but it's the city and that's what they  
5 expect, correct?

6           MS. HONG: That was her move-out letter.

7           MR. KLINE: That was her move-out letter?

8           MS. HONG: That was her move-out letter.

9           MR. KLINE: But it specifically said it  
10 wasn't -- the rats were not the issue, correct?

11          MS. HONG: I believe she was trying to help  
12 me get new tenants because she was leaving early  
13 before her lease expired.

14          MR. KLINE: All right, and you know that how?  
15 Because you -

16          MS. HONG: Because she left before her lease  
17 expired citing the rats.

18          MR. KLINE: So, that's pure speculation on  
19 your part as to what her motivation is for what  
20 she told you, isn't it?

21          MS. HONG: Yes, because she did not want to  
22 be held responsible for the rest of the lease and



1 so she was actively trying to help me find some  
2 new people.

3 MR. KLINE: All right. Now, the diplomat --  
4 is that the diplomat that you referred to?

5 MS. HONG: No, this is Monique Smith is the  
6 diplomat from Canada who actually said she would  
7 live there for three years and had me change the  
8 paint color even after I had freshly painted  
9 things.

10 MR. KLINE: All right. And I want to show  
11 you, unless you have it there, an e-mail from her  
12 dated October 27, 2014. Do you have that e-mail?

13 MS. HONG: No.

14 CHAIRPERSON ANDERSON: What document are you  
15 referencing?

16 MR. KLINE: I'm referring to the protestant's  
17 exhibit, I don't think it's numbered, but it's in  
18 there in the group of e-mails.

19 MS. HONG: Oh, okay.

20 CHAIRPERSON ANDERSON: I think we need to  
21 identify the document for the record so we can  
22 keep it.

1 MR. KLINE: We'll call it protestants' #2,  
2 I'm sorry, applicants' #2 at this point.

3 MS. HONG: My apologies. October 3rd, no  
4 that's not it. Oh yeah. Okay, all right. Okay,  
5 what about it?

6 MR. KLINE: This is a letter -- or an e-mail  
7 from your tenant, correct?

8 MS. HONG: Yes.

9 MR. KLINE: There's a photograph there, isn't  
10 there?

11 MS. HONG: Yes.

12 MR. KLINE: And it's a barbecue and she  
13 describes it in the e-mail, it's apparently a  
14 new, or old --

15 MS. HONG: No, it's a brand new barbecue that  
16 was never opened or never used because she was  
17 afraid to go in the back yard.

18 MR. KLINE: Okay. And that barbecue is --  
19 there's a picture of it and rats have chewed  
20 through the cardboard haven't they?

21 MS. HONG: Yes and she --

22 MR. KLINE: And there isn't -- you can just

1 answer my question, you don't need to go on.

2 MS. HONG: Okay.

3 MR. KLINE: And there isn't any food in that  
4 box, there wasn't any food when the rats chewed  
5 through that box, was there? In fact, she  
6 comments on that in the e-mail doesn't she?

7 MS. HONG: She says the box -- it was in the  
8 box, new, stored, wrapped in the tarp in the back  
9 yard.

10 MR. KLINE: Right. And I think she goes on  
11 to say something about food, I believe, read  
12 further.

13 MS. HONG: Yes. It was brand new so there  
14 was nothing that could be attracting them, no  
15 food.

16 MR. KLINE: So, the rats in the neighborhood  
17 where you owned a piece of rental property are so  
18 vicious that they will chew through cardboard to  
19 get to a new barbecue that's not had food on it,  
20 aren't they?

21 MS. HONG: Well, I think it's the stimulus  
22 response of an animal is that if they see

1 cardboard and they know that in the past there's  
2 been food in it, why not chew through it?

3 MR. KLINE: You think rats are that smart  
4 that they see cardboard --

5 MS. HONG: I do. There's lots of studies  
6 that show how smart rats are.

7 MR. KLINE: But you're not qualified to speak  
8 to those studies today, are you?

9 MS. HONG: Well, I think I am. I don't know  
10 what qualifications you would like to see.

11 MR. KLINE: All right. I would move  
12 applicant's exhibit #2.

13 MS. HONG: Here, you can have it back.

14 CHAIRPERSON ANDERSON: I will -- the  
15 applicant's -- all right it's your document, do  
16 you have, Mr. Jayaraman, do you have a problem  
17 with Mr. Kline moving one of your documents into  
18 the record?

19 MR. JAYARAMAN: Yes, because -- yes, I do  
20 sir, because this picture doesn't really show  
21 whether there's an actual -- you know, the  
22 connection that he made with rodents and who said

1 it, there's no connection with that, it has no  
2 proof that --

3 CHAIRPERSON ANDERSON: Well, he's. So,  
4 therefore, are you not going to introduce this  
5 document in the record?

6 MR. JAYARAMAN: Yes, that's correct.

7 CHAIRPERSON ANDERSON: So, you're not going  
8 to?

9 MR. JAYARAMAN: No, I'm not -- not this one  
10 particular page.

11 MR. KLINE: I didn't quite understand the  
12 objection. There's no connection to -- ?

13 MR. JAYARAMAN: This person is a diplomat.  
14 The fact that she wrote down her interpretation  
15 of what this picture looks like, it could have  
16 been, you know, not necessarily relevant.

17 MR. KLINE: It was tendered by the  
18 protestants. It says, "this is my barbecue which  
19 is still in the box, new in store, wrapped in a  
20 tarp in the back yard. The rats ate through the  
21 tarp and through the box. It was brand new, so  
22 there was nothing that could have been attracting

1    them, no food."

2           CHAIRPERSON ANDERSON:   Mr. Jayaraman said  
3    that he's not going to introduce this document,  
4    move this document into evidence.  He objects to  
5    it.  You've gotten the testimony on record, so I  
6    don't think it's -- I mean, you've gotten, you  
7    have gotten testimony regarding a document in the  
8    record, but I --

9           MR. KLINE:  Well she's identified it as an e-  
10   mail to her at this point, so I think it's  
11   relevant --

12          MR. JAYARAMAN:  I'll withdraw my objection,  
13   so they can, they can move it in.  I withdraw.

14          MR. KLINE:  It's authenticated and it's  
15   relevant.

16          CHAIRPERSON ANDERSON:  It's not that it's  
17   rele -- remember, it was his document that he  
18   said that he did not want to move in the record,  
19   you're trying to move one of his documents in the  
20   record, and he said he didn't want to but now he  
21   has, he has agreed, so it's now part of the  
22   record.  So this document is now applicant's

1 exhibit #2.

2 MR. KLINE: All right. And, we talked about  
3 it before, but I'm now going to hand it to you  
4 identified as applicant's #3.

5 CHAIRPERSON ANDERSON: What document is that?

6 MR. KLINE: This is an e-mail from Jocelyn  
7 Hong to Micheline Mendelsohn dated October 5th,  
8 2014 at 9:21 p.m.

9 CHAIRPERSON ANDERSON: All right, okay.

10 MR. KLINE: Can you identify that document?

11 MS. HONG: Yes.

12 MR. KLINE: And what is it?

13 MS. HONG: It's a letter, or an e-mail I  
14 wrote to Micheline Mendelsohn.

15 MR. KLINE: And in that you request that you  
16 be reimbursed \$1150 don't you?

17 MS. HONG: Yes.

18 MR. KLINE: All right. Of the applicants,  
19 right?

20 MR. JAYARAMAN: Mr. Chair, I object to this  
21 whole line of questioning because the counselor  
22 has already pointed out that my line of

1 questioning on property damage was not relevant  
2 to this case, yet he continues to introduce and  
3 speak to property damage from our evidence list.

4 CHAIRPERSON ANDERSON: Well, Mr. Kline is  
5 doing something else. So, the issue right now is  
6 whether or not you object to this document being  
7 -- let me say this for not an attorney, Mr. Kline  
8 is trying to basically say that your client, that  
9 your witness is biased, and so, therefore, these  
10 are -- that -- at least from an attorney's  
11 perspective that's how I see it. So, that's why  
12 he's asking these questions. Are you an  
13 attorney, sir?

14 MR. JAYARAMAN: No, sir.

15 CHAIRPERSON ANDERSON: All right, so, that's  
16 how -- at least from an attorney's perspective --  
17 I see it. So, they are relevant from his  
18 perspective. They are your documents, so do you  
19 object to this document? It's a document that it  
20 appears you planned to introduce into evidence  
21 which I'm not sure how you were planning to use  
22 the document, so you can still use the document



1 for the purpose that you had submitted it, so  
2 it's just -- you let me know whether or not this  
3 document should be part of the record. The board  
4 and lawyers in closing will make whatever  
5 arguments they want from a document, so you can  
6 use the same document and you can argue what  
7 you're trying to prove, and Mr. Kline can use the  
8 same document and argue from his perspective what  
9 it proves. But it's up to us to listen to the  
10 testimony to make a decision based on what is it  
11 that we're going to do. So, you let me know  
12 whether or not you object to this document --  
13 your document -- whether or not it should be  
14 moved into evidence.

15 MR. JAYARAMAN: It can be moved in.

16 CHAIRPERSON ANDERSON: Okay, so this is --  
17 we're moving this document as applicant #3.  
18 Okay, go ahead.

19 MR. KLINE: I want to show you what's been  
20 marked, which is premarked as applicant's exhibit  
21 #9.

22 MS. HONG: Okay.

1 MR. KLINE: There's two letters there. Isn't  
2 the first letter the one that you described as  
3 the threatening letter from the lawyer?

4 CHAIRPERSON ANDERSON: Mr. Kline, can you  
5 just give me one minute, sir? I can't -- since  
6 the documents are not numbered, at least the ones  
7 that I have, so just tell me the dates.

8 MR. KLINE: This is applicant's #9, this is  
9 numbered --

10 CHAIRPERSON ANDERSON: Oh, I'm sorry,  
11 applicant's. Hold on one minute, please. Okay,  
12 go ahead.

13 MR. KLINE: All right. Applicant's #9,  
14 there's two letters there. The first letter,  
15 that's the letter that you testified to earlier  
16 that you received from the lawyer that you called  
17 a threatening letter?

18 MS. HONG: Yes.

19 MR. KLINE: All right. On page #3 of that  
20 letter, first the letter goes on to describe the  
21 efforts that have been made by the establishments  
22 to deal with issues that are raised, doesn't it?

1 MS. HONG: The weak efforts? Yes.

2 MR. KLINE: And then, on page #3, the lawyer  
3 states, "in light of the significant efforts to  
4 engage the community and make proactive capital  
5 investments and operational improvements in their  
6 restaurants, Bernaise was both surprised and  
7 offended by the threats in your letter,  
8 specifically that you would, "be initiating  
9 forceful action which would include a lawsuit,  
10 press coverage and information distributed to  
11 customers in front of your business." That was,  
12 indeed, the language that was quoted in your  
13 letter.

14 MS. HONG: And did I take any action to  
15 disparage Bernaise's businesses including but not  
16 limited to making false statements to the media  
17 or directly to Bernaise customers --

18 MR. KLINE: I wasn't asking about that.

19 MS. HONG: -- we will be forced to take our  
20 own legal action against you.

21 MR. KLINE: I would ask that that be  
22 stricken. That's not a response to the question.

1 MS. HONG: I'm sorry. What was your  
2 question?

3 MR. KLINE: My question is the quoted  
4 language was in your letter that you would be  
5 initiating forceful action which would include a  
6 lawsuit, press coverage and information  
7 distributed to customers in front of your  
8 business." Wasn't that in your letter?

9 MS. HONG: Yes, that was in my letter.

10 MR. KLINE: All right. So, this letter was  
11 indeed a response to your threats, wasn't it?

12 MS. HONG: Indeed, this was a letter that I  
13 wrote after being highly frustrated with the lack  
14 of concern and I don't think it's disparaging  
15 statements to merely print photographs of what is  
16 going on behind the restaurant and giving that to  
17 people who are eating.

18 MR. KLINE: I would move that that be  
19 stricken as it's completely unresponsive to the  
20 question that I asked.

21 CHAIRPERSON ANDERSON: Mr. Kline, you asked a  
22 question and that's her -- that's the answer that

1 she gave.

2 MR. KLINE: It was unresponsive.

3 CHAIRPERSON ANDERSON: I think it was  
4 responsive, so I disagree. Move on.

5 MR. KLINE: So your position is -- I think  
6 you just testified to this -- that the items that  
7 are delineated in this letter, #1 through #7 on  
8 page two -- do you see those?

9 MS. HONG: Page two of your letter?

10 MR. KLINE: No, not my letter, the letter  
11 from Owens and \_\_\_\_\_.

12 MS. HONG: Okay.

13 MR. KLINE: The items that are delineated as  
14 #1 through #7 on page two and #1 through #5 on  
15 pages two and three, these are the 'weak efforts'  
16 that you were referring to in response to my  
17 question?

18 MS. HONG: Yes, they were inadequate.

19 MR. KLINE: You called them weak, is what you  
20 called them.

21 MS. HONG: Weak and inadequate.

22 MR. KLINE: Okay. So, your testimony and

1 your position is increasing trash pickup to twice  
2 a day is weak? That is a weak response to a  
3 trash problem?

4 MS. HONG: In response to the volume of trash  
5 that is coming.

6 MR. KLINE: Okay.

7 MS. HONG: If it's still overflowing then  
8 that is inadequate. If your bins cannot close,  
9 that is inadequate.

10 MR. KLINE: All right. Now, you see #4 on  
11 page three that it says "Bernaise has developed a  
12 system for their telephone operator to be in  
13 contact with managers as soon as an issue arises  
14 from the neighbors." You see that language?

15 MS. HONG: I do see that.

16 MR. KLINE: All right. But you didn't make  
17 any effort to contact the managers.

18 MS. HONG: Well, that's because Sylvia  
19 Csiffary was actually doing the contact --

20 MR. KLINE: [inaudible 6:24:18] Let me finish  
21 my question, please. You didn't make any effort  
22 to contact the manager, did you? And it is a yes

1 or no question.

2 MS. HONG: I didn't make any attempt to  
3 contact the manager.

4 MR. KLINE: Right. Even though you had been  
5 put on notice in this letter that that was a  
6 means that you could obtain corrective action.

7 MS. HONG: Well, we had a representative who  
8 was going to be contacting them.

9 MR. KLINE: We have a court reporter over  
10 here --

11 MS. HONG: Sorry.

12 MR. KLINE: We can't talk at the same time or  
13 she's not going to get it.

14 MS. HONG: Okay.

15 CHAIRPERSON ANDERSON: What I'll do is -- let  
16 him finish asking the question and you answer  
17 the question.

18 MS. HONG: Okay.

19 CHAIRPERSON ANDERSON: Mr. Jayaraman, you'll  
20 have an opportunity, and I'm being lawyerly for  
21 you, if Mr. Kline asks her to answer a yes or no  
22 question and if you believe that she has an

1 explanation you have an opportunity to ask that  
2 same question so she can explain. So, I'm just  
3 letting you know, since you're not a lawyer and  
4 Mr. Kline is a lawyer and he does a fine job.  
5 All right, go ahead, sir.

6 MR. KLINE: All right, so the answer is you  
7 did not avail yourself of the opportunity to  
8 contact the managers as stated in this letter,  
9 correct?

10 MS. HONG: Well, that's not correct because  
11 we had a representative who did that for me.

12 MR. KLINE: Okay, but you later indicated  
13 that that representative didn't speak for you,  
14 didn't you?

15 MS. HONG: Not exactly.

16 MR. KLINE: What do you mean not exactly?

17 MS. HONG: What are you referring to?

18 MR. KLINE: Sometime after the date that this  
19 letter was sent to you.

20 MS. HONG: That's not clear.

21 MR. KLINE: That's all I have at this time.

22 CHAIRPERSON ANDERSON: Thank you, Mr. Kline.



1 Do we have any questions by any board members?

2 Yes, Ms. Miller?

3 MS. MILLER: Good afternoon. I wanted to ask  
4 you how often are you at the property?

5 MS. HONG: I'm at the property -- I work  
6 right on Capitol Hill so I'm there maybe once or  
7 twice a month.

8 MS. MILLER: Okay. And what have you noticed  
9 about the handling of the trash, say in the last  
10 year?

11 MS. HONG: Well, I get photographs, even if  
12 I'm not there, and I do have a camera, so I don't  
13 have to physically be there. I can sometimes see  
14 what's happening because my tenants will send me  
15 things or my neighbors will send me things or I  
16 have the camera. I have the camera.

17 MS. MILLER: Okay, so I hear you on that.  
18 But as far as personal observation, you're not  
19 there very often? Is that it?

20 MS. HONG: I don't have to -- I'm there  
21 remotely is a better way to put it.

22 MS. MILLER: So, you're not there but you do

1 observe some things through cameras. Where do  
2 you have cameras?

3 MS. HONG: Yeah, I have an ADT camera that  
4 isn't always working but it does work  
5 occasionally.

6 MS. MILLER: Okay, so what have you observed  
7 in the last, let's say six months?

8 MS. HONG: In the last six months? There  
9 have been times when the trash is very neat and  
10 then there have been times when it is still  
11 overflowing.

12 MS. MILLER: So, you've observed in the  
13 camera overflowing trash.

14 MS. HONG: Not in the camera. Just from what  
15 my tenants have sent me as photographs.

16 MS. MILLER: Okay, so you have -- what kind  
17 of tenants do you have living there? Do you have  
18 a family, do you have a couple?

19 MS. HONG: No, I have a couple.

20 MS. MILLER: A couple?

21 MS. HONG: Yes.

22 MS. MILLER: And do they work during the day?

1 MS. HONG: One of them works from home.

2 MS. MILLER: Oh, okay. So, do you -- can you  
3 put on the record then what kind of pictures  
4 you've seen, then, in the last six months?

5 MS. HONG: Most of the pictures actually have  
6 come from Sylvia. They've sent me a couple  
7 pictures.

8 MS. MILLER: And who exactly is Sylvia?

9 MS. HONG: I think she'll be called as a  
10 witness.

11 MS. MILLER: Okay.

12 MS. HONG: I apologize. She probably should  
13 have gone first but I have a friend who --

14 MS. MILLER: So, does she live next door to  
15 you or something like that?

16 MS. HONG: She lives across the way.

17 MS. MILLER: Across the way, okay.

18 MS. HONG: So, she overlooks the alley -- she  
19 overlooks my back yard and the alley.

20 MS. MILLER: Okay, so Sylvia has the photos  
21 and the observations, not you -- you don't have  
22 anything in the past six months? And how long

1 have your tenants lived there that are there now?

2 MS. HONG: They've just made a year about two  
3 months ago, so a little bit over a year.

4 MS. MILLER: Okay, and have they complained  
5 to you about trash management?

6 MS. HONG: Their complaints usually come in  
7 the form of the rats and then sometimes when the  
8 trash bags go over the top of the wall and  
9 they've got to get rid of it.

10 MS. MILLER: Trash bags going over the wall?  
11 What do you mean?

12 MS. HONG: Dumpsters -- dumpster trash being  
13 thrown over the top because they miss the  
14 container, I guess.

15 MS. MILLER: Okay. And have you complained  
16 about that to the applicant?

17 MS. HONG: Not through this formal process.  
18 Through the neighbor.

19 MS. MILLER: Through Sylvia?

20 MS. HONG: Yes.

21 MS. MILLER: Okay. You hadn't personally.

22 MS. HONG: Well, yeah, we have someone who

1 speaks for us so that we don't all have to take  
2 time out of our busy day to monitor.

3 MS. MILLER: Okay, so that's Sylvia. Okay.  
4 Did you say you were at a meeting in December?

5 MS. HONG: In December of 2014.

6 MS. MILLER: Oh, 2014, okay. I'm more  
7 interested in what's going on now, because who  
8 knows from 2014 it could have been corrected.

9 MS. HONG: Oh yes, that's true.

10 MS. MILLER: So, you haven't -- so have there  
11 been -- so were you at this meeting in December  
12 or no?

13 MS. HONG: The 2014 or the most recent  
14 meeting?

15 MS. MILLER: Oh that was 2014, I'm sorry,  
16 that was on my note. So, have you had any  
17 concerns that you tried to address with the  
18 applicant within the last year with respect to  
19 the management of trash?

20 MS. HONG: I've been trying to work through  
21 our group so that we don't have a lot of people,  
22 you know, coming at them. They can filter their

1 response through a spokesperson.

2 MS. MILLER: Okay, so -- and your group is?

3 MS. HONG: It's sitting here now.

4 MS. MILLER: Other people who are here.

5 MS. HONG: Yes, the other neighbors who live  
6 directly --

7 MS. MILLER: So, to the best of your  
8 knowledge, have you, as a group, made -- had  
9 certain complaints in the last year about the  
10 trash management and let me just stop there,  
11 first.

12 MS. HONG: Yeah, it's probably better that it  
13 goes to Sylvia because as a group we have, but  
14 she's been handling it more specifically.

15 MS. MILLER: Okay. And I just want to give  
16 you your chance while you're here.

17 MS. HONG: Oh, thank you.

18 MS. MILLER: And there was an issue about  
19 paving.

20 MS. HONG: Paving, yes.

21 MS. MILLER: I thought I heard that the  
22 applicant offered to pave the alley as a solution

1 to the rodents or something and that -- what was  
2 your response to that?

3 MS. HONG: So, initially we thought the  
4 answers to everyone's problem was to pave the  
5 alley. That's not what we were there to talk  
6 about but that's what she wanted to talk about.  
7 So, in order to be also responsive to what she  
8 thought her needs were we decided to be  
9 supportive or neutral on whether or not the alley  
10 got paved. And I was hopeful that after she got  
11 that issue taken care of that then she would then  
12 reciprocate and, you know, help us with the  
13 garbage problem.

14 MS. MILLER: Okay, so I guess that's my  
15 question now is what problem, with respect to  
16 trash management, do you think exists now and is  
17 there a solution that you would like them to  
18 implement?

19 MS. HONG: Yes. So, I think, again, some  
20 type of indoor trash situation and also a fan  
21 that keeps the grease inside because there's also  
22 -- I don't know if you can consider that part of

1 the trash problem but there's a layer of grease  
2 that overlies all of my backyard patio furniture  
3 and, you know, fence and it's kind of like when  
4 you cook bacon or something, there's just like a  
5 layer of grease over everything.

6 MS. MILLER: And what's the solution to the  
7 grease that you know of?

8 MS. HONG: The indoor fan. I think there's -  
9 -

10 MS. MILLER: Indoor fan?

11 MS. HONG: There's a different type of fan  
12 function but again I'll --

13 MS. MILLER: Can you just help me because I'm  
14 not as familiar with this -- an indoor fan.

15 MS. HONG: Can I let Chander address that?  
16 Oh, sorry.

17 MS. MILLER: That's somebody else in the  
18 group? Oh, fine, fine.

19 MS. HONG: So he'll address it. If that's  
20 okay. I don't want to waste everybody's time by  
21 --

22 MS. MILLER: Indoor trash. Did you ask about



1     that to the applicant?

2           MS. HONG: We asked that. In terms of our  
3 group put forth as to reasonable recommendations  
4 and that was included.

5           MS. MILLER: Okay and what would that do?

6           MS. HONG: I think it contains the problem  
7 with the rodents. They don't have anywhere to  
8 go, you know, if it's indoors obviously it's very  
9 difficult for them to access the trash.

10          MS. MILLER: Okay. And are you familiar with  
11 other establishments that have that?

12          MS. HONG: Yeah, I was told that there are  
13 other establishments that have moved in that  
14 direction.

15          MS. MILLER: Okay. You don't know  
16 specifically which ones but you were told there  
17 were.

18          MS. HONG: I apologize. Not off the top -- I  
19 don't remember the names of the --

20          MS. MILLER: And I assume that you think  
21 they're successful.

22          MS. HONG: I was told that they were pretty

1     successful.

2           MS. MILLER:   Okay, okay.   Are you concerned  
3     at all about -- we heard testimony about rodents  
4     being -- I don't know if generated is the right  
5     word -- but coming from Pret A Manger and the  
6     cleaners?

7           MS. HONG:    No, I don't -- I can't imagine,  
8     maybe from Pret A Manger, I mean I don't -- I  
9     don't think the cleaners, I mean they're a  
10    drycleaners.

11          MS. MILLER:   Okay, well why do you think  
12    that?   We know you're not an expert on rodents  
13    per se, but you know property, why do you think  
14    that the restaurants are the primary source of  
15    the problem?

16          MS. HONG:    Well, rats are attracted to food  
17    and they are like goldfish, they seem to grow to  
18    the size of the food they're allowed to eat so we  
19    have rats that are as big as small cats and, you  
20    know, again, it's very difficult to , you know,  
21    rent my place.   I had an open house and a rat had  
22    been hit on the street and it was just gigantic

1 and, I mean, the blood and guts were everywhere  
2 and I was having an open house and it was right  
3 in front of my house. I mean -- and some of the  
4 rats were poisoned and were, you know, kind of  
5 dying, you know they've been dying all over. So,  
6 I had another tenant that was complaining about  
7 the smell because a rat had somehow crawled -- I  
8 don't know where it was but it had died and so  
9 that was the other thing. She just said there's  
10 this continual odor of death.

11 MS. MILLER: So, yeah, I hear you and I just  
12 -- can you just clarify as far as like this year  
13 goes? I know you've probably had a lot of  
14 tenants since 2010 or whatever before, but this  
15 year have you had those problems?

16 MS. HONG: I'm sorry, I couldn't hear you.

17 MS. MILLER: Have you had that problem this  
18 year?

19 MS. HONG: With the rats dying in the  
20 floorboards?

21 MS. MILLER: And the smell, yes.

22 MS. HONG: No, this year I had the dog that

1 got bit by a rat in the front yard which the  
2 front yard is only like 12 feet, 7 feet by 5  
3 feet, it's a fairly small front yard.

4 MS. MILLER: Okay. Was that your dog?

5 MS. HONG: No, it's my tenant's dog.

6 MS. MILLER: Oh, okay. All right. That's  
7 all I have, thank you.

8 MS. HONG: Okay, thank you.

9 CHAIRPERSON ANDERSON: Mr. Short.

10 MR. SHORT: Good afternoon, Ms. Hong. I have  
11 in my hand, and I'm hoping to get your  
12 permission, your attorney's, ANC 6B exhibit #2,  
13 I'd like to know if I can show them this.

14 CHAIRPERSON ANDERSON: You can show them.

15 MR. SHORT: Can someone get a copy to Ms.  
16 Hong?

17 MR. KLINE: Mr. Chair, I have to note my  
18 objection that it appears exhibits have been  
19 shared with board members before they've been  
20 introduced at this hearing, which means that  
21 whether they are properly identified, marked  
22 identified and introduced into evidence that

1 they're being looked at and may have bearing on a  
2 decision in this case, I don't know whether this  
3 is the board's usual procedure. It's new to me.  
4 I'm not aware that the board looks at exhibits  
5 before a hearing but I'm learning for the first  
6 time today that that appears to be the case and  
7 it's quite troubling given the requirements of  
8 the Administrative Procedures Act and the board's  
9 own rules and regulations concerning a record at  
10 which the parties are present and a board  
11 decision that is to be made in reliance upon the  
12 official record that's created during the course  
13 of a hearing on the record.

14 CHAIRPERSON ANDERSON: I don't -- the board  
15 has not made a decision. The PIP was provided to  
16 the board or the agency and I remember during  
17 protest hearings I alert all parties that seven  
18 days before the hearing that you need to provide  
19 your PIP to -- that you have to exchange -- it  
20 comes to the agency and it comes to the board.  
21 Now, in preparing for the hearing, board members  
22 in the sense that if you had asked earlier about

1 the report that we -- I know I reviewed the  
2 report. I did look at the documents that were  
3 submitted, but I'm not making any decisions based  
4 on documents that are not in the evidence and so,  
5 I will make sure that whatever decision is made  
6 is made on the evidence that is presented here  
7 today. So, I don't think anyone's making a  
8 decision. I just think that the board has the  
9 information that both parties' PIP, and I think  
10 the board is just asking questions based on the  
11 PIP that is -- I mean -- maybe because, since the  
12 applicant has not presented its case as yet,  
13 maybe this is one of the documents that he would  
14 have produced that the board would have been  
15 asking questions once he introduced it. But I  
16 just think -- I don't think that the board is  
17 running afoul of the law. We have the documents  
18 that were submitted to us and the board -- some  
19 board members might have reviewed the documents  
20 and prepared for the hearing, but I assure that  
21 the decisions that are made today will be made  
22 based on the facts, on the evidence that is

1 presented here in this hearing today.

2 MR. KLINE: No, I understand that, and I  
3 appreciate that, and I'm not suggesting anyone's  
4 made a decision, I'm not suggest that at all. My  
5 concern is from a process standpoint is that we  
6 have an APA hearing that's to take place on the  
7 record and the board, like all boards in the  
8 District of Columbia, are supposed to consider  
9 the evidence that's produced at the hearing on  
10 the record, and I'm learning for the first time,  
11 and I'm pretty stunned, frankly, that there's  
12 evidence that's been reviewed before this  
13 hearing. And I've never heard of that in any  
14 administrative case, much less a trial, that I've  
15 been involved in where boards look at evidence in  
16 a contested case hearing, which under the  
17 Administrative Procedures Act is to take place on  
18 the record. So, I'm concerned about that. I  
19 note my objection. I don't how to fix it, but I  
20 note it on the record in case somebody else has  
21 to look at this case someday.

22 CHAIRPERSON ANDERSON: Yes, sir.

1           MR. JAYARAMAN: Mr. Chair, this is not -- I  
2   don't believe this is our of order. I did a BZA  
3   case just a couple of weeks ago and we were -- we  
4   wrote all of our evidence and we presented the  
5   whole thing and the board of zoning reviewed it  
6   all and we were asked to summarize everything.  
7   So, this is not unusual.

8           MR. KLINE: That's in a BZA case.

9           MR. JAYARAMAN: We had to present all of our  
10   evidence ahead of time, you know, for  
11   expeditiousness of the board.

12          MR. KLINE: A BZA proceeding is not a  
13   contested case proceeding and this is. And  
14   that's the difference.

15          CHAIRPERSON ANDERSON: I -- as I said, Mr.  
16   Kline, the documents were submitted seven days --  
17   they were submitted to the board but the board is  
18   making -- and why we sit here today, board  
19   members are looking at the documents that we have  
20   in front of us. I mean one of the questions I've  
21   asked you to do is when you pick a document to  
22   let me know what document you are referring so I



1 can find it, so I can look at the document at the  
2 same time. But, I don't take it as a fact that  
3 the board is making decisions on documents that  
4 are not in evidence, and we're not -- we will not  
5 be relying on any document to make our decision  
6 that has not been officially introduced in this  
7 hearing today.

8 MR. KLINE: My objection is there for the  
9 record, so that's all I can do at this point.

10 MR. SILVERSTEIN: Mr. Chair?

11 CHAIRPERSON ANDERSON: Yes, Mr. Silverstein?

12 MR. SILVERSTEIN: Did we not already examine  
13 exhibits as part of the licensee's decision and  
14 they were, in fact, exhibits from the  
15 protestants.

16 CHAIRPERSON ANDERSON: No, but he has not  
17 introduced -- the documents have not been  
18 introduced.

19 MR. SILVERSTEIN: Right, which was exactly  
20 similar.

21 CHAIRPERSON ANDERSON: No, but what Mr. Kline  
22 is saying is that once the documents -- both

1 sides will provide to us -- will pull a document,  
2 ask questions and once they ask questions then  
3 they'll make a motion for it to be a part of the  
4 record, and so what Mr. Kline is saying is that  
5 neither the applicant nor -- I'm sorry, the  
6 protestant or the licensee, has brought certain  
7 documents to the attention of the board. So,  
8 since those documents have not been brought to  
9 the attention of the board, the board should not  
10 be relying on those documents since they're not  
11 officially a part of the record. That's what Mr.  
12 Kline is saying.

13 MR. KLINE: I think that's a fair summary and  
14 also the point is, I mean my understanding of the  
15 way these hearings work is that documents are  
16 authenticated and then a decision is made by the  
17 chair in consultation with the board as to  
18 whether they are admissible. And in my  
19 experience it's highly irregular that a decision-  
20 making body in a contested case would review  
21 evidence before the hearing, before there's been  
22 a determination as to whether it's admissible.

1 And I'm unaware that this has happened in the  
2 other cases that I've been involved in. Maybe it  
3 has. I remember in previous cases hearing from  
4 the chair, 'well, no, I haven't looked at it, it  
5 hasn't been moved yet, it's not in the case.'  
6 But today I'm learning for the first time that  
7 any case that I've been involved in that that's  
8 not the case, that all the board members have  
9 reviewed exhibits without any determination as to  
10 their legal sufficiency, their relevance or their  
11 admissibility, and it's quite troubling.

12 CHAIRPERSON ANDERSON: But these documents  
13 are not in the case. They're not in the case,  
14 they've not been introduced so they're not a part  
15 of the record, the only documents that are part  
16 of the record are the documents that are  
17 introduced in this hearing and they're a part of  
18 the record and the board, in making its  
19 determination, will not rely on any document, and  
20 as board chair, we will not rely on any document  
21 or support any decision that has not been  
22 officially introduced into the record today.

1           MR. SILVERSTEIN: Mr. Chair, with that being  
2 said, having been and being here on the dais as  
3 one of the newest members of this board if it's  
4 appropriate I will take that picture back.

5           CHAIRPERSON ANDERSON: We're fine. Mr. Short  
6 will --

7           MR. KLINE: I don't have a quarrel  
8 specifically with what Mr. Short is doing, my  
9 quarrel is more with the overall procedure in  
10 terms of evidence going to board members and  
11 being reviewed outside of this hearing room,  
12 which I don't believe is appropriate. I  
13 [inaudible 6:46:23].

14           CHAIRPERSON ANDERSON: What I'm going to do,  
15 Mr. Short, and what I'm going to do, Mr. Kline,  
16 I'm going to take a five-minute break to consult  
17 Legal. So, as chairman of the Alcoholic Beverage  
18 Control Board for the District of Columbia, in  
19 accordance with D.C. Official Code Section 2574-B  
20 of the Open Meetings Amendment Act, I move that  
21 the ABC board hold a closed meeting for the  
22 purpose of seeking legal advice from our counsel

1 on cases #16-PRO-00023, Bernaise, license #89622,  
2 Case #16-PRO-00024, We The Pizza, and case #16-  
3 PRO-00029, Good Stuff Eatery, pursuant to D.C.  
4 Official Code Section 2574-B-4 of the Open  
5 Meetings Act. Is there a second?

6 MR. SHORT: Second.

7 CHAIRPERSON ANDERSON: Mr. Short has seconded  
8 the motion. I will take a roll call vote of the  
9 board now that it has been seconded. Ms. Miller?

10 MS. MILLER: Agree.

11 CHAIRPERSON ANDERSON: Mr. Alberti?

12 MR. ALBERTI: I agree.

13 CHAIRPERSON ANDERSON: Mr. Short?

14 MR. SHORT: I agree.

15 CHAIRPERSON ANDERSON: Mr. Silverstein?

16 MR. SILVERSTEIN: I agree.

17 CHAIRPERSON ANDERSON: It appears that the  
18 motion has passed and I hereby give notice that  
19 the ABC board will recess this proceeding and I  
20 will give us about -- I'll be back in 10 minutes,  
21 okay?

22 MR. KLINE: Thank you.

1           CHAIRPERSON ANDERSON:   Okay, thank you.

2   [Interlude]   All decisions regarding -- when the

3   board deliberates, the board makes a decision

4   based on the facts and documents that are in the

5   record.   If it's not introduced by either side,

6   no matter how compelling it is, the board will

7   not rely on those documents that are not being

8   introduced into evidence.   As I stated before,

9   the PIP has been disclosed by each side seven

10   days in advance.   The board, in preparation, the

11   members might have read the documents; however,

12   during our deliberations if it is not introduced,

13   all the decisions that we made are based on the

14   facts in evidence and that is the standard that I

15   have established since I have been here in

16   November, and I will continue such standards, and

17   I'm very -- that is something that I'm very keen

18   on in the sense that I've always reminded my

19   board members in our deliberations that under no

20   circumstances can they bring information from

21   outside of the hearing that was not disclosed.

22   I've basically told them that the parties are the

1 ones who make -- who argue. We do not argue. We  
2 sit here as neutral and make the decision and I  
3 assure that moving forward, and since at least  
4 since I've been here in November, no decision has  
5 been made if the document has not been introduced  
6 and moved into evidence and so that's the  
7 position of the agency. I do hear your  
8 objection, Mr. Kline, but I assure you whatever  
9 decision is made it will be made on the evidence  
10 that's introduced -- the evidence that's moved  
11 into the record today and on -- will not be made  
12 on documents that are not a part of this  
13 evidence. Okay?

14 MR. KLINE: Thank you.

15 CHAIRPERSON ANDERSON: All right. So, Mr.  
16 Short has asked you questions, but he has stated  
17 he will withdraw the question, so if you have  
18 another question, Mr. Short, go ahead.

19 MR. SHORT: Again, thank you for your  
20 testimony today, this afternoon, Ms. Hong. How  
21 many years have you owned this property?

22 MS. HONG: Since 1994.

1           MR. SHORT: Since 1994. And do you normally  
2 have it full? I mean, rented out normally?

3           MS. HONG: That is usually my hope.

4           MR. SHORT: All right, and so you know your  
5 neighbors quite well and that neighborhood quite  
6 well?

7           MS. HONG: Some of the neighbors that have  
8 been there a long time I know fairly well.

9           MR. SHORT: And you say the issue with the  
10 alley that we have been talking about today is  
11 something that's gotten worse in the last year?

12          MS. HONG: Off and on, off and on. I mean,  
13 it's -- I notice that every time I repair my wall  
14 it gets destroyed, and whenever -- or, I'm sorry,  
15 not the wall but the exterior of the building,  
16 when I have it repainted and fixed, and then when  
17 I don't it goes for a long time, so it's almost  
18 as if when I fix it that's a sign that someone  
19 should come and bash it, so it just gets kind of  
20 frustrating.

21          MR. SHORT: Well, there's got to be a balance  
22 between businesses and home owners and people



1   that live in the community and hopefully this  
2   hearing can help bring a little bit of balance.

3           MS. HONG: Yeah, no, I appreciate it. I just  
4   want to say I appreciate small businesses and I'm  
5   a small business myself and so, you know, I like  
6   to find some kind of reasonable way to get this  
7   resolved.

8           MR. SHORT: Okay, thank you very much for  
9   your testimony, it has been quite compelling.

10          MS. HONG: Thank you. Thank you.

11          MR. SHORT: Thank you. Thank you, Mr. Chair.

12          CHAIRPERSON ANDERSON: Any other -- yes, Mr.  
13   Silverstein?

14          MR. SILVERSTEIN: Thank you, Ms. Hong. If  
15   the licensee were to go away, would the rat  
16   problem go away completely?

17          MS. HONG: Significantly, probably.

18          MR. SILVERSTEIN: That's not the question.

19          MS. HONG: Oh.

20          MR. SILVERSTEIN: The question I asked was  
21   would it go away completely?

22          MS. HONG: I don't know that I'm allowed, I

1 mean I'm able to say that. It's like predicting  
2 who's going to win, Trump or Hillary?

3 MR. SILVERSTEIN: I will avoid any rodent  
4 comments regarding that. The point I'm trying to  
5 get at is there's an underlying problem there and  
6 everywhere in the city and that to blame all of  
7 it, some of it, whatever -- it's a matter of  
8 degree. And I'm trying to get to that and I  
9 don't want to play games with you, and I don't  
10 want you to play games with me. The question I'm  
11 trying to ask: There are other establishments  
12 and the licensee has said that these other  
13 establishments contribute. To what extent does  
14 Pret A Manger, which also is a food distributor,  
15 is a restaurant, do they contribute to the  
16 problem?

17 MS. HONG: I can't say, I mean.

18 MR. SILVERSTEIN: How close are they to your  
19 property?

20 MS. HONG: They're furthest away.

21 MR. SILVERSTEIN: Three doors down? Four  
22 doors down?

1 MS. HONG: They're kind of catty-corner, so  
2 about four, maybe.

3 MR. SILVERSTEIN: Catty corner?

4 MS. HONG: Yeah ,they're kind of -- they're  
5 closest to my other neighbor.

6 MR. SILVERSTEIN: Did you ever contact them?  
7 Or have your folks ever contacted them as well?  
8 I mean, this is the kind of thing that needs a  
9 holistic approach.

10 MS. HONG: Mm hmm.

11 MR. SILVERSTEIN: You know, if rats were to  
12 have to leave there they'd go somewhere.

13 MS. HONG: Mm hmm.

14 MR. SILVERSTEIN: You know. Have you ever  
15 contacted them, have you ever worked with them?

16 MS. HONG: No, I haven't contacted. Our,  
17 again, we try to work through our neighborhood  
18 group so that we, you know, have more of a  
19 consistent message.

20 MR. SILVERSTEIN: Okay, let's assume, and  
21 this is a question that's frequently asked, don't  
22 read anything into it, I'm seeking an answer that

1 -- assume that we were going to give the licensee  
2 the license. What would be the bottom line that  
3 you would need to make your life decent and  
4 tolerable and that of your tenants? What strings  
5 would you need on it?

6 MS. HONG: Well, I think, again, I was  
7 mistaken when I talked about how the grease  
8 should be stored, but if you could store it  
9 within the receptacles that are already in the  
10 interior of the Good Stuff Eatery and Bernaise --

11 MR. SILVERSTEIN: You're saying that the  
12 grease should be stored in the interior.

13 MS. HONG: Yes.

14 MR. SILVERSTEIN: Do you know -- have you  
15 known or seen places where this is done  
16 elsewhere?

17 MS. HONG: I know that some of the other  
18 folks that are here actually have visited some of  
19 the establishments that have this and have come  
20 back and shared that with me.

21 MR. SILVERSTEIN: Other? Point one. Point  
22 two.

1 MS. HONG: Refrigerated -- they have a  
2 refrigerated cooler and if they could store all  
3 of the non-grindable food waste in that cooler  
4 and then with the food waste that is not able to  
5 grind that they would install a grindable food  
6 waste facility that they would install or utilize  
7 --a food waste grinder, and then a trash  
8 compactor to dispose of the recyclables that  
9 don't fit into the -- you know, that they can use  
10 to reduce the number of trash cans they have for  
11 recyclables.

12 MR. SILVERSTEIN: The licensee said that they  
13 offered to do that and there was issues with  
14 noise. I guess nothing's perfect, everything has  
15 its costs and benefits, but you believe that that  
16 wouldn't bother your tenants, or you believe it  
17 could be done in the daytime? Or what is --

18 MS. HONG: Well, I think that that's all  
19 things that can be negotiated. My tenants have  
20 mostly been complaining about the loud pickup,  
21 and probably there's not much you can do about  
22 that. I installed double hung -- double

1 insulated windows to actually cut back on that.  
2 I put new windows in too, so that the sound  
3 barrier would be less, and so it hasn't been as  
4 much of a problem because they sweep in the  
5 front, not in the back where the trash is picked  
6 up.

7 MR. SILVERSTEIN: Okay. And those are your  
8 basic -- anything else?

9 MS. HONG: Well, I think our group actually  
10 has a list of recommendations. I was just kind  
11 of touching on the ones that would most directly  
12 impact, you know, what I see as problems.

13 MR. SILVERSTEIN: Sure.

14 MS. HONG: But I think we have a couple of  
15 other suggestions that we'd like to be able to  
16 work on with them.

17 MR. SILVERSTEIN: Very well. Thank you very  
18 much.

19 MS. HONG: Thank you so much.

20 CHAIRPERSON ANDERSON: Mr. Alberti?

21 MR. ALBERTI: Good evening, Ms. Hong.

22 MS. HONG: Hi.

1           MR. ALBERTI: So, I'm a little confused at  
2 where the trash is -- where the trash bins are.  
3 Because you talked about trash being thrown over  
4 your yard. Has that happened recently?

5           MS. HONG: Maybe in the last month.

6           MR. ALBERTI: Okay. And do you have any  
7 evidence that it's from one of these  
8 establishments?

9           MS. HONG: They didn't see it, they just --

10          MR. ALBERTI: Pardon?

11          MS. HONG: I don't know that they opened it  
12 up. Sometimes it opens up because the rats will  
13 crawl over and eat it and then you can see what  
14 comes out. The two -- there are bins that are  
15 located directly behind my house, and then  
16 there's one across, like adjacent to the alley.

17          MR. ALBERTI: All right, let's go one step.  
18 So, directly behind -- you're on the east side of  
19 that alley? You're on the alley?

20          MS. HONG: I'm on the alley.

21          MR. ALBERTI: On the east side, on C Street?

22          MS. HONG: I'm on C Street to the right of

1 the alley.

2 MR. ALBERTI: So if you're facing your house

3 --

4 MS. HONG: It's the front of my house --

5 MR. ALBERTI: If you're facing the alley  
6 you're to the right.

7 MS. HONG: Yeah, the side of my house faces  
8 the alley.

9 MR. ALBERTI: Yeah, that would sort of put  
10 you on the southeast side.

11 MS. HONG: Yeah. Okay. I'm sorry, I'm not  
12 like a map reader.

13 MR. ALBERTI: That's okay, that's all I need  
14 to know. So, right behind you -- and then there  
15 are other bins which are where?

16 MS. HONG: So, directly -- I have a wall and  
17 it's directly behind the wall and it's like sort  
18 of --

19 MR. ALBERTI: Behind your property.

20 MS. HONG: Behind my property. Yeah.

21 MR. ALBERTI: Are there other trash bins  
22 besides that in the alley?



1 MS. HONG: Yeah, there's a couple and then  
2 there's like a wood fence that is keeping it all  
3 in, and then there's that drainage -- there's  
4 that drainage that overflows.

5 MR. ALBERTI: You're going too quickly. So,  
6 there's a fenced in area and that's directly  
7 behind what property?

8 MS. HONG: My back yard.

9 MR. ALBERTI: Would that be -- looking at  
10 exhibit #26 in the report, the one that Mr. Kline  
11 referred to earlier, would that be the BB & T  
12 behind that property? Is that what it turns to?

13 MS. HONG: Yeah, it probably abuts the BB & T  
14 property.

15 MR. ALBERTI: Okay. So, there's some of the  
16 fenced in area there, and there's some outside  
17 that fenced in area behind your yard.

18 MS. HONG: Yes.

19 MR. ALBERTI: Is there any other locations?

20 MS. HONG: Along the back, I think.

21 MR. ALBERTI: Back of?

22 MS. HONG: Yeah, there's still like, there's

1 about two, I think, recyclables.

2 MR. ALBERTI: Outside the fenced in area?

3 MS. HONG: Outside the fence -- it's the  
4 recyclables.

5 MR. ALBERTI: So, as I'm facing the fenced in  
6 area, to the left?

7 MS. HONG: Yes.

8 MR. ALBERTI: Okay. And you say along the  
9 back of the property?

10 MS. HONG: On the Pret A Manger side, yeah.

11 MR. ALBERTI: Along the licensee's  
12 properties, on an alley?

13 MS. HONG: Mm hmm.

14 MR. ALBERTI: Okay. Thank you.

15 MS. HONG: Okay. Thank you.

16 MR. ALBERTI: I have no further questions.

17 CHAIRPERSON ANDERSON: All right. Mr. Kline?

18 MR. KLINE: Yes. Ms. Hong, you were  
19 testifying about the repaving of the alley and  
20 you seemed to suggest that that was to meet the  
21 needs of the establishment, is that a fair  
22 assessment of your meaning?

1 MS. HONG: Yes.

2 MR. KLINE: Wasn't it a fact that the alley  
3 paving was in connection with the installation of  
4 a compactor?

5 MS. HONG: I'm sorry?

6 MR. KLINE: Are you aware that the reason  
7 that the establishment desired the alley to be  
8 paved was to accommodate a compactor?

9 MS. HONG: Oh. That's not what she said  
10 initially when she was asking for it. Maybe that  
11 came later when they got it -- when they finally  
12 got the alley approved.

13 MR. KLINE: When they got the alley approved.  
14 Your contention is that there was some other  
15 reason that these establishments sought to have  
16 the alley repaved?

17 MS. HONG: Well, I think at the time, and it  
18 was a couple of years ago, so, like three years  
19 ago. It was in December of 2014 when we sat down  
20 and talked about it, she was saying that she  
21 thought that the problem with the trash cans that  
22 are scraping the side of my house would be

1 alleviated by getting the alley fixed.

2 MR. KLINE: Okay, and you didn't agree with  
3 that?

4 MS. HONG: Not necessarily, but if that's  
5 what she thought would be the right solution, I  
6 wanted to be receptive.

7 MR. KLINE: And you're unaware that the  
8 discussions about repaving the alley related to  
9 the installation of the compactor?

10 MS. HONG: Well, no one has -- she has not  
11 contacted me since then, so I --

12 MR. KLINE: My question to you is a simple  
13 one, and the simple question is are you unaware  
14 that the repaving of the alley related to the  
15 installation of a compactor? Is that what you're  
16 saying today? Your contention is that you didn't  
17 know that that had anything to do with the  
18 installation of a compactor?

19 MS. HONG: Not at the time. When we talked  
20 about it, that wasn't what she was linking it to.

21 MR. KLINE: Have you learned since then that  
22 was the reason that the alley was to be repaved?

1 MS. HONG: I guess you're telling me now.

2 MR. KLINE: I'm not telling you anything.

3 MS. HONG: Oh, okay.

4 MR. KLINE: I'm asking you questions.

5 MS. HONG: Oh, okay. Sorry. It sounds like  
6 you're telling me that that's what's happening.

7 MR. KLINE: I'm asking you what you know.

8 MS. HONG: Oh.

9 MR. KLINE: It doesn't matter what I know.

10 MS. HONG: Okay, all right. I'm not sure I  
11 understand you. I apologize.

12 MR. KLINE: I'll withdraw the question.

13 MS. HONG: Okay.

14 MR. KLINE: That's all I have.

15 CHAIRPERSON ANDERSON: Now, Mr. Jayaraman, is  
16 it your understanding, you can ask questions  
17 based on the questions that the board asked and  
18 the questions that Mr. Kline asked.

19 MR. JAYARAMAN: I think there's some -- I'd  
20 like to introduce our exhibit #1 into the record,  
21 please.

22 CHAIRPERSON ANDERSON: Before you introduce

1 it in the record, you need to authenticate it,  
2 so, therefore, are you going to have her testify  
3 about this document? So, what you do is you can  
4 say exhibit #1, you can show it to her, ask her  
5 what it is, you can have her testify about the  
6 document. After she's testified then you can ask  
7 that it be introduced into the record and and I  
8 will ask Mr. Kline if he has an objection, I'll  
9 listen to what he says, and then I'll make a  
10 decision if it's in the record. So, that's -- so  
11 you pull the document, have her identify it and  
12 then you can ask her questions about it. And you  
13 need to show it to Mr. Kline first. Show Mr.  
14 Kline the document you're going to show her. Not  
15 me, Mr. Kline, and show the witness and have her  
16 identify it, please.

17 MR. JAYARAMAN: Do you recognize this map?

18 MS. HONG: Yes.

19 CHAIRPERSON ANDERSON: Can you have her tell  
20 us what the map is.

21 MR. JAYARAMAN: What is the map?

22 MS. HONG: The map looks like it's a plot of

1 the different residential homes as well as the  
2 restaurants.

3 MR. JAYARAMAN: Do you recognize on this map  
4 where your property is?

5 MS. HONG: Yes.

6 MR. JAYARAMAN: Can you provide verification  
7 is it clearly labeled where the trash area is?

8 MS. HONG: Yes, that's clearly labeled.

9 MR. JAYARAMAN: And please verify where your  
10 property in this diagram is -- and please note  
11 that she is pointing to the southeast corner of  
12 the alley that goes directly behind the property.

13 In your testimony, you stated that there was  
14 trash behind there. Is there any other  
15 establishment besides the one that are here that  
16 utilize the trash areas directly behind your  
17 property?

18 MS. HONG: Well, not to my knowledge.

19 MR. JAYARAMAN: If Pret A Manger were to use  
20 any of that area would they be able to access  
21 that area from where they're located?

22 MS. HONG: No, 'cause their trash is on this

1 side. I mean, you know, I see it when you walk  
2 out, their dumpsters are clearly on -- facing the  
3 3rd Street entrance.

4 MR. JAYARAMAN: Is it right that there is a  
5 fence that divides where their trash can  
6 containers are to any access to that alley area  
7 directly?

8 MS. HONG: Yeah, that's correct.

9 MR. JAYARAMAN: Okay. So, previously there  
10 were some questions about a representative to  
11 speak. Who designated Sylvia Csiffary as the  
12 representative of your group? Was that something  
13 you guys decided?

14 MS. HONG: She was the most knowledgeable  
15 person about what was happening and so by virtue  
16 of having that knowledge she became the person  
17 that everybody talked to, I think.

18 MR. JAYARAMAN: So was there some sort of  
19 election or vote taken that officially recognized  
20 her as the representative.

21 MS. HONG: No, that would be too organized.

22 MR. JAYARAMAN: Okay. So, it was just, it



1     wasn't a formal vote.

2           MS. HONG:  No.  No, there was no formal vote.  
3     How many times did you communicate with Ms.  
4     Csiffary about the trash issues that were being  
5     relayed to you in the last year?

6           MS. HONG:  Over the last year?  Probably  
7     about maybe monthly.

8           MR. JAYARAMAN:  Monthly.

9           MS. HONG:  And I guess I could add partially  
10    because I'm on travel a lot.

11          MR. JAYARAMAN:  Okay.  Is there any other  
12    place where this trash bag that was thrown over  
13    your fence could have come from besides that  
14    trash area?

15          MS. HONG:  Unless it was malicious and  
16    somebody came from another neighborhood and  
17    wanted to throw trash in, I don't know where it  
18    would come from.

19          MR. JAYARAMAN:  Thank you.

20          MS. HONG:  We didn't open it so I don't know  
21    what the contents were.

22          MR. JAYARAMAN:  That's all the questions I

1 have.

2 CHAIRPERSON ANDERSON: Mr. Jayaraman, do you  
3 want to move the document in the record?

4 MR. JAYARAMAN: Yes, I would. I would like  
5 to move that exhibit #1, labeled area map with  
6 labels, to be introduced into the record, please.

7 MR. KLINE: No objection.

8 CHAIRPERSON ANDERSON: So ruled. So, we have  
9 now moved protestant exhibit #1 which was a map  
10 of the area into the record. Okay, thank you.  
11 All right, thank you, you are free to go. Please  
12 do not talk to anyone --

13 MS. HONG: Thank you.

14 CHAIRPERSON ANDERSON: -- or please do not  
15 discuss the nature of your testimony with anyone  
16 until this case is over, okay?

17 MS. HONG: Okay, and thank you so much for  
18 taking me early out of turn, I really appreciate  
19 that.

20 CHAIRPERSON ANDERSON: You're welcome, thank  
21 you. Mr. Kline, we can go back to your exhibit.

22 MR. KLINE: Yes, so I don't forget, I move

1 applicant's exhibit #1 which was the  
2 investigator's exhibit #27 as marked by Ms.  
3 Mendelsohn.

4 CHAIRPERSON ANDERSON: Yeah, I did.

5 MR. KLINE: I don't remember that I formally  
6 did, did I?

7 CHAIRPERSON ANDERSON: I think you did, but  
8 if you did not then the investigator's exhibit  
9 #26 of the investigator report has been marked  
10 and identified and moved into the record.

11 MR. KLINE: I call to the stand, John  
12 Renninger.

13 CHAIRPERSON ANDERSON: Raise your right hand,  
14 please. Do you swear or affirm to tell the truth  
15 and nothing but the truth?

16 MR. RENNINGER: [inaudible 7:09:111.

17 CHAIRPERSON ANDERSON: I couldn't hear you,  
18 sir.

19 MR. RENNINGER: Yes, sir.

20 CHAIRPERSON ANDERSON: Okay, thank you. Have  
21 a seat. Your witness, Mr. Kline.

22 MR. KLINE: Please state your name for the

1 record.

2 MR. RENNINGER: Okay, my name is John  
3 Renninger.

4 MR. KLINE: All right, Mr. Renninger, and  
5 where are you employed?

6 MR. RENNINGER: I'm with Sunnyside Restaurant  
7 Group, which is, you know, Capitol Hill Good  
8 Stuff Eatery, We The Pizza and Bernaise.

9 MR. KLINE: Okay, so the three restaurants  
10 that we've been talking about.

11 MR. RENNINGER: Yeah.

12 MR. KLINE: And how long have you been -- and  
13 what's your position there?

14 MR. RENNINGER: I'm the director of  
15 operations.

16 MR. KLINE: And how long have you been the  
17 director of operations?

18 MR. RENNINGER: It'll be a year coming this  
19 week.

20 MR. KLINE: Any day now.

21 MR. RENNINGER: Any day now.

22 MR. KLINE: All right. And you have some

1 experience in the food service industry, correct?

2 MR. RENNINGER: Yes, a lot.

3 MR. KLINE: Tell the board what your  
4 experience has been.

5 MR. RENNINGER: Okay, so I just retired from  
6 the navy. I did 20 years. I did food service in  
7 the navy and my last eight years I spent in D.C.  
8 working for Presidential Food Service. I ran the  
9 executive kitchen in the West Wing of the White  
10 House.

11 MR. KLINE: All right, now in your time in  
12 the navy did you have some sort of training with  
13 respect to food service management?

14 MR. RENNINGER: Yeah, as far as food service  
15 management, yes. It's mostly, especially in the  
16 military, if any of you have a military  
17 background, a lot of it has to do with sanitation  
18 and, you know, storage of, you know, food and,  
19 you know, trash.

20 MR. KLINE: Okay. And give the board some  
21 idea of some of the training that you received  
22 there.

1           MR. RENNINGER: So, when you go to sea  
2 obviously you can't -- there's nowhere to put  
3 your trash unless you're a certain number of  
4 miles out, so obviously you have to separate and  
5 store things sanitarily. So, that's pretty much  
6 what we've done, and try to keep rodents out of  
7 the establishment is the big thing.

8           MR. KLINE: We'll get to that. Right now,  
9 I'm focusing on you and your background so we all  
10 understand what your particular expertise is.

11          MR. RENNINGER: Yeah.

12          MR. KLINE: All right, so you worked in the  
13 White House the last eight years, is that what  
14 you said?

15          MR. RENNINGER: Yeah, 2007 to 2015.

16          MR. KLINE: And what did you do there?

17          MR. RENNINGER: I was the production manager  
18 for the West Wing kitchen, executive dining  
19 facility. It's ran by the navy since 1951.

20          MR. KLINE: Okay. And, back when you were  
21 not on site at the White House, did your duties  
22 involve trash management?

1           MR. RENNINGER: Yeah, ultimately, yes because  
2 we ran dining facilities afloat and ashore, you  
3 know, so the big thing was to keep vectors they  
4 call them out of the establishments.

5           MR. KLINE: And how much time did you spend  
6 afloat?

7           MR. RENNINGER: Afloat probably about four  
8 and a half, five years, as the --

9           MR. KLINE: Was that particularly challenging  
10 with respect to trash management?

11          MR. RENNINGER: Absolutely. Because you  
12 have to be a certain amount of miles out before  
13 you can dump, or you know what you can throw  
14 overboard and what you keep until you get into  
15 port.

16          MR. KLINE: You referenced vector control, is  
17 that what you call it?

18          MR. RENNINGER: Yeah. Vectors are anything  
19 that, they tell you to search and destroy all  
20 vectors which are like rats, cockroaches, any  
21 type of organism that's not human that can get  
22 into your establishment and surrounding areas.

1           MR. KLINE: We've talked a lot today, I  
2 think, about vectors, and you've had some  
3 experience with those in the operation of these  
4 restaurants, correct?

5           MR. RENNINGER: Yeah, and also at the White  
6 House I had to deal with them also.

7           MR. KLINE: What were the issues at the White  
8 House with respect to vectors?

9           MR. RENNINGER: Well, there's rats  
10 everywhere. I'm not saying they're inside the  
11 White House, but anywhere that there's trash, in  
12 the evening times, you know, we used to have  
13 dumpsters with plastic lids and you could just  
14 see them in the evening times just rolling in and  
15 out of the dumpsters. They're just, they're  
16 everywhere all over the city. I actually did  
17 like a study and it says that in 2014 that D.C.  
18 was the third rattiest city in the nation, so,  
19 you know, when I came to D.C. and after I read  
20 that after some years I said 'oh my goodness, you  
21 know, that's why D.C. has such an issue because  
22 they're everywhere.'



1           MR. KLINE: Now, you're responsible for the  
2 management of trash in connection with these  
3 three establishments, correct?

4           MR. RENNINGER: Yeah.

5           MR. KLINE: And we heard Ms. Mendelsohn  
6 describe what I would call as her frustration in  
7 terms of specifically the management of employees  
8 in terms of carrying out the company policies  
9 with respect to rat management and trash  
10 management.

11          MR. RENNINGER: Yeah.

12          MR. KLINE: What's your perspective on that?

13          MR. RENNINGER: Well, it is a -- there is  
14 frustration as far as the employees, but the fact  
15 of the matter is that when you -- when I first  
16 started and, you know, you hear a little bit  
17 about the trash situation and everything and that  
18 was pretty much maintained by the managers at the  
19 restaurants, you know the trash area. And then  
20 when I actually went to the ANC meeting and I met  
21 everyone at the ANC meeting and we talked to an  
22 extent about the frustrations involving the

1 trash, I was like, 'okay, I see the other side of  
2 it. I see both sides, but, you know, what can I  
3 do to kind of help out?' So, I gave everybody,  
4 you know, my card, and you know, like hey, if  
5 you're having issues, you know, or there's things  
6 that just aren't right, let me know because one  
7 thing that I've noticed, and this is something  
8 that I've been doing daily, this isn't something  
9 that's just like, 'oh you know, there's trash  
10 overflowing, look they -- look at this place it's  
11 just trashed, you know, it looks horrible,' you  
12 know, we put in a lot of measures. It's not  
13 perfect. I'm trying to work with the, you know,  
14 I talked with Sylvia a few times and I talked  
15 with Chander and he actually, we talked, we used  
16 to talk like almost weekly, biweekly, he would  
17 come by in the back and we'd take a look in the  
18 area and say, 'hey this looks good, and this is  
19 something, and what about this over here?' And  
20 I'd say that's boat trash, I have to wait, you  
21 know, KMG is coming by in two days to pick up  
22 this boat trash which is here which is pretty

1 much just mechanical junk that's sitting out, you  
2 know, like a failed compressor or something that  
3 you just can't throw in your dumpster. You've  
4 got to have it, you know, off to the side. And,  
5 anyways, I had given my cards out at the meeting  
6 in the spring in hopes that, like 'hey, if  
7 there's any issues, like I'm the person that you  
8 can contact.' Like, 'you can contact me, like  
9 I'm all for, like, working with everybody. What  
10 I mean is as far as making this whole thing work.  
11 And I've gotten one e-mail the entire time. One  
12 e-mail since the spring about any issues, to me  
13 personally. Not from Sylvia, and she's always  
14 very polite to me, so you know, but she just  
15 wanted to let us know, let me know, how great of  
16 a job we were doing as far as the cleanup and the  
17 efforts that we put in and that, now they were  
18 going to start focusing on other establishments  
19 like Starbucks and Hawk and Dove, for how, you  
20 know, nasty their areas were now.

21 MR. KLINE: When was that?

22 MR. RENNINGER: That was , like in, that was

1   probably in the, maybe before summer, early  
2   summer. And then, so you know, so I know like  
3   when we had the mediation hearing and stuff that,  
4   you know, Mr. Chander here was talking about, you  
5   know, at the mediation, about how like we were  
6   doing significantly better, that the neighbors  
7   were talking --

8           MR. JAYARAMAN:   Objection.

9           MR. RENNINGER:   No, just be quiet a second,  
10   I'm talking.

11          CHAIRPERSON ANDERSON:   I'm sorry, sir, that's  
12   -- that's inappropriate.

13          MR. RENNINGER:   Okay, my apologies.

14          CHAIRPERSON ANDERSON:   And let me say this to  
15   you sir, in your testimony, if a representative  
16   says "objection" then for you to be quiet, then I  
17   hear what they have to say and then I will let  
18   you know whether or not you can move forward.

19          MR. RENNINGER:   Yes, sir.

20          CHAIRPERSON ANDERSON:   Okay? What is the  
21   nature of your objection, sir?

22          MR. JAYARAMAN:   My objection is reference to

1 the mediation sessions and what was stated in  
2 that because that's privileged discussion.

3 CHAIRPERSON ANDERSON: You heard, sir, you  
4 cannot talk about conversations that occurred at  
5 mediation.

6 MR. RENNINGER: Yes, sir.

7 CHAIRPERSON ANDERSON: So, in your answer  
8 please do not talk about mediation, okay?

9 MR. RENNINGER: I apologize to Mr. Chander.

10 MR. KLINE: Let me ask you a different  
11 question. Did you have conversations with Mr.  
12 Jayaraman as to how you were doing with respect  
13 to trash management outside of mediation?

14 MR. RENNINGER: Yes.

15 MR. KLINE: You did?

16 MR. RENNINGER: Yes, yes.

17 MR. KLINE: And what were those discussions?

18 MR. RENNINGER: We would come down, you know,  
19 he'd come back down and check the alley and, you  
20 know, look and bring some issues up, like 'hey,  
21 there's kegs in the back here' you know, in the  
22 back alley, and I'd say, 'we're waiting for them

1 to come pick up because they, you know, it's a  
2 deposit. And then some trash, 'hey, you know,  
3 look you've got a couple -- some cardboard coming  
4 out of the container,' and I said 'okay, we're  
5 going to get on that when the trash company come  
6 pick up.'

7 MR. KLINE: So it was a cooperative  
8 relationship.

9 MR. RENNINGER: Yeah, it was very  
10 cooperative.

11 MR. KLINE: Did there come a time when that  
12 cooperation ceased?

13 MR. RENNINGER: Yeah.

14 MR. KLINE: When did it cease?

15 MR. RENNINGER: It ceased after our last  
16 mediation hearing.

17 MR. KLINE: All right, did you hear from Mr.  
18 Jayaraman after that in connection with reviewing  
19 the issues in the alley.

20 MR. RENNINGER: Never. Never.

21 MR. KLINE: And you indicated that you told  
22 folks publicly that you were the person to

1 contact, correct?

2 MR. RENNINGER: Exactly. Yeah, I mean, it's  
3 not -- it's not perfect and to kind of talk about  
4 the trash area, I notice that, you know,  
5 obviously when it's not the cleanest is the first  
6 thing in the morning or after the companies come  
7 pick up. I've actually been in discussions with  
8 KMG -- I've had the owner come out of KGM and  
9 actually have cc'd the ANC in e-mails to customer  
10 service of the KMG company, like when there's an  
11 issue, because it's like the paparazzi, I'll be  
12 honest with you, when the trash gets picked up  
13 and it starts going down and papers start coming  
14 out, you know, there's cameras. I know that.  
15 You know, there's cameras in the alley, people  
16 are down taking pictures. So, my big thing is  
17 that I'm trying to keep the communication lines  
18 open and so what I do is I e-mail the KMG  
19 customer service and say, 'hey, this is  
20 unacceptable' and I've e-mailed the AN -- or I've  
21 cc'd the ANC in these e-mails stating 'hey,  
22 listen, if you pick these up, if your employees

1 know, if I'm not quick to clean it up, have them  
2 contact someone in the restaurant and we'll come  
3 out and clean it up immediately. This is  
4 unacceptable and I do try to work -- you know, I  
5 don't want the residents to have issues with how  
6 we're doing things and my whole --

7 MR. KLINE: Let's talk for a minute about how  
8 you're doing things.

9 MR. RENNINGER: Yeah, okay, all right.

10 MR. KLINE: Let's tell the residents, talk  
11 about how you're doing things.

12 MR. RENNINGER: Okay.

13 MR. KLINE: Talk the board through how the  
14 trash is managed from these three establishments.

15 MR. RENNINGER: Okay, so we the walk-in  
16 cooler and then we have the dumpster area which  
17 you've heard about. So, the trash goes into the  
18 walk-in cooler in totes, plastic totes. And when  
19 the company comes pick them up they wheel them  
20 down the alley. They take them -- it's just like  
21 the ones that you get at your house. As they  
22 tote their wheeled down the alley all the way



1 down to the street where they dump them and wheel  
2 them all the way back. We have that worked out  
3 with KMG. They take the dumpsters that get  
4 filled next, and the recycling bins. There's  
5 three dumpsters that hold trash with steel lids  
6 so the rats can't lift them up and come out.  
7 There's two recycling dumpsters and in the walk-  
8 in cooler is 11 totes, okay? Eleven plastic  
9 totes. Now, I have instructed my people that  
10 when the cooler gets filled and then the dumpster  
11 gets filled, it doesn't matter what it looks like  
12 inside the cooler, you have to stack it in the  
13 cooler to the ceiling. Does that happen all the  
14 time? No. But that's why I have to check it  
15 every day. So, when I come in to work between  
16 6:00 and 7:00 in the morning, it's the first  
17 thing I look at, is the trash area. I mean, I  
18 know for a fact that folks see me out there every  
19 day. I'm out there every day. I'm out there  
20 every day. I mean there's days I'm doing it  
21 myself.

22 MR. KLINE: All right, so you talked about

1 the bins get wheeled out --

2 MR. RENNINGER: Yes, yes.

3 MR. KLINE: -- and picked up twice a day,  
4 correct?

5 MR. RENNINGER: Except Sundays is once a day.

6 MR. KLINE: Okay. And then, recyclables --  
7 and that's just the solid waste, correct?

8 MR. RENNINGER: Recyclables is once a day,  
9 yeah.

10 MR. KLINE: Okay, so it's actually three  
11 pickups a day, correct?

12 MR. RENNINGER: Yes, yeah. Two trash and one  
13 recycling.

14 MR. KLINE: Two times a day and one recycle.

15 MR. RENNINGER: Yeah.

16 MR. KLINE: And there's some photos that are  
17 floating around that may or may not get  
18 introduced into evidence that's in reference, but  
19 you've seen the protestants' exhibits.

20 MR. RENNINGER: Yeah.

21 MR. KLINE: Correct?

22 MR. RENNINGER: Yeah.

1           MR. KLINE: And what's your response to that?  
2 Is that typical? Is that atypical?

3           MR. RENNINGER: I mean, it's not typical. I  
4 don't know what it was like, you know, before I  
5 got there and I know that even after I got there  
6 for a bit there was some issues. There was some  
7 issues. Like, it's a constant evolving thing.  
8 Like we talk about the French drain. The French  
9 drain that's in the back, it doesn't drain  
10 anywhere. It's just this hole in the alley that  
11 the city has yet to address, that just fills up  
12 and there's, you know, food and water, and so  
13 with all the rain and the amount of cleaning up,  
14 I'm sure you've all seen that it was overflowing  
15 down the alley and so what I did was is I had my  
16 guys, you know, purchase an electric submersible  
17 pump. So, what's he doing? He's pumping the  
18 water out of the drain so that it's not carrying  
19 down.

20          MR. KLINE: When you pump -- when the water  
21 is pumped out of the drain where do you pump it  
22 from there?

1           MR. RENNINGER: There's in the back of  
2 Bernaise there's a mop sink, so obviously it's  
3 not going to pull up any solids out of the drain,  
4 so it goes straight into the drain in the mop  
5 sink and goes, you know, straight into the pipes  
6 in the restaurant, you know, the mop sink, you  
7 know, where you dump your dirty mop water, that's  
8 where it would go.

9           MR. KLINE: Given your 20 years of experience  
10 in food service, would you say that refrigerated  
11 trash rooms are the norm?

12          MR. RENNINGER: No. I mean, I haven't seen  
13 them. But, I mean, I've heard about them, you  
14 know, maybe in New York City I think they do.  
15 That's about it.

16          MR. KLINE: Okay, so this was your first  
17 experience with that in this establishment, is  
18 that right?

19          MR. RENNINGER: Yeah, it's the first one.

20          MR. KLINE: All right. I'm going to show you  
21 some photos that I'm going to ask you to walk  
22 through because we talked about a lot of things,

1 but I think it's probably helpful to point out.  
2 I'm going to show you what is marked as  
3 applicant's exhibit #4. It's actually exhibit  
4 #15 --

5 MR. RENNINGER: Okay.

6 MR. KLINE: -- in the investigator's report.  
7 Can you tell the board what that is?

8 MR. RENNINGER: That is wire meshing.

9 MR. KLINE: Okay, now what's the  
10 significance of the wire meshing?

11 MR. RENNINGER: That is to, I think it was  
12 installed -- it was installed before I came on  
13 board but it was put there to, I think it stops  
14 rats -- they can't chew through like the wooden  
15 fence at the bottom, they get through into  
16 peoples' yards.

17 MR. KLINE: All right, and did there come a  
18 time that that was removed during your tenure  
19 there?

20 MR. RENNINGER: Yes, this is around where the  
21 dumpster area is. Yeah, we removed all of that  
22 around the dumpster area. We were requested to

1 do it because I think the rats were falling  
2 between. They were trying to climb the fence and  
3 they were falling between two fences and they  
4 would just die in there and the smell would just  
5 get too bad behind -- I think the photo of  
6 [inaudible 7:25:53] is over here. So, we removed  
7 them at the request of one of the hearings we  
8 had, I think to remove them, yeah.

9 MR. KLINE: I'll show you what we've marked  
10 as #5 of the investigator's exhibit #17. Do you  
11 know what that is? Can you identify that?

12 MR. RENNINGER: Yeah, this is the trash area  
13 where you'll see the wall back there. That's  
14 where -- on the right side there you'll see three  
15 dumpsters. That's where the trash goes into.

16 MR. KLINE: Okay, and the lids?

17 MR. RENNINGER: Those are -- those are steel  
18 lids for the -- for the trash.

19 MR. KLINE: Do you know if they were  
20 previously plastic or were you not there when  
21 they were?

22 MR. RENNINGER: I wasn't here for that, I

1 think that got changed out right before I got  
2 here.

3 MR. KLINE: Okay. And there are some lights  
4 shown in that picture. What's the significance  
5 of those lights?

6 MR. RENNINGER: I had those lights installed  
7 probably back in the summer -- what it does is it  
8 kind of, you know, the amount of rodents around,  
9 the lights kind of help illuminate the area when  
10 the workers go back there to throw trash away.  
11 Additionally, it helps in our photographs. Every  
12 evening we have this thing that's called shift  
13 notes for each of the restaurants. I have -- the  
14 closing manager will go back and take snapshots  
15 of the trash cooler and the dumpster area and it  
16 comes to me via e-mail every evening. Good  
17 Stuff's come in about between 10:15 and 10:30 and  
18 We The Pizza come in between 11:15 and 11:30.  
19 So, the main focal point of that is that when I  
20 get those photos at night, I want to know that  
21 when these guys leave for the day, that the lids  
22 are directly on top of the dumpster and that, you

1 know, the walk-in cooler door is closed and  
2 there's no access, you know, for rodents to get  
3 in there.

4 MR. KLINE: All right. I'm going to show you  
5 applicant's #6, which is the investigator's  
6 exhibit #18. What is that?

7 MR. RENNINGER: That is the receptacle that  
8 stores our grease for the three restaurants.

9 MR. KLINE: All right. And the applicant's  
10 #17 which is -- I'm sorry, applicant's #7 which  
11 is investigator's #19?

12 MR. RENNINGER: So, this right here is a  
13 linen bin where we hold our dirty linens. These  
14 actually -- we have two of them, one behind We  
15 The Pizza and one behind Bernaise restaurant.  
16 These were actually -- we had non-enclosed ones,  
17 ones that were kind of open, and I noticed after  
18 I had been on board for a little while if you  
19 come in the early mornings or the late evenings,  
20 to be honest with you, rats love this. So, what  
21 we did was, I called AlSCO, our linen company,  
22 and I got enclosed bins to try to keep the vermin



1 out of there, I guess you could say. What it  
2 does is it just -- they love dirty rags and food  
3 soiled rags -- they'll eat them. So, what we do  
4 is we put them in these burlap sacks and then we  
5 drop them in here and the lid and the front are  
6 supposed to be closed.

7 MR. KLINE: Now, is that something you see  
8 everywhere? Is that typical that people have  
9 closed linen receptacle?

10 MR. RENNINGER: I mean, you would hope, but  
11 no, not everywhere.

12 MR. KLINE: Okay. But this is a change that  
13 you instituted.

14 MR. RENNINGER: This is one that I instituted  
15 to try to reduce the flow of rodents to the back  
16 area.

17 MR. KLINE: All right, I'm going to hand you  
18 applicant's #8 and #10.

19 CHAIRPERSON ANDERSON: Where are these  
20 documents from, Mr. Kline?

21 MR. KLINE: It's exhibits #20 and #21 in the  
22 investigator's report. I'm going to skip #9

1 because I think we previously looked at exhibit  
2 #9, so I didn't want to be [inaudible 7:30:20]  
3 the garbage was at the time. Can you tell the  
4 board what this picture shows?

5 MR. RENNINGER: Yeah, this is obviously  
6 myself in the walk-in trash cooler.

7 MR. KLINE: Okay, so this is the famous walk-  
8 in trash cooler that we've been talking about all  
9 day?

10 MR. RENNINGER: Yeah.

11 MR. KLINE: And there are two pictures of it.  
12 One of them, one closed and one open, is that  
13 right?

14 MR. RENNINGER: Yeah.

15 MR. KLINE: I'm going to show you #11 and  
16 #12. Actually, these are premarked. This is  
17 applicant's exhibit #3H, 3I, all of these are  
18 ones from [inaudible 7:31:22]

19 MR. RENNINGER: Ah, yeah. So, this right  
20 here is the drycleaner. If you actually take a  
21 look at this, this is quite -- this is the  
22 structural integrity of the drycleaning business

1    which is in between We The Pizza and Bernaise  
2    restaurant. I actually received a fine which got  
3    rescinded by the city because they thought it was  
4    our lot, which it wasn't.

5           CHAIRPERSON ANDERSON: What is applicant's  
6    exhibit number?

7           MR. KLINE: It's exhibit #3 and the  
8    photograph.

9           MR. RENNINGER: So --

10          CHAIRPERSON ANDERSON: It's number three from  
11    --

12          MR. KLINE: The applicant. Applicant's  
13    exhibit that was premarked and submitted.

14          CHAIRPERSON ANDERSON: I don't, I don't -- I  
15    don't have that. Yeah, sure, yeah I don't have -  
16    - see mine is empty. So, I couldn't have looked  
17    at this before, there's nothing there. I need to  
18    get a copy. Do you have an extra copy there?

19          MR. RENNINGER: Yeah, this one.

20          CHAIRPERSON ANDERSON: Okay, thank you, all  
21    right. So, what number is this?

22          MR. KLINE: So, number #3 is going to be 3H -

1 - exhibit #3 is all photographs, that's how they  
2 were filed, so it's H and I.

3 CHAIRPERSON ANDERSON: Have you introduced #3  
4 already? I'm trying to keep track.

5 MR. KLINE: I did introduce #3 but I didn't -  
6 - I didn't put letters after it, so if you want  
7 to change the numbering that's fine.

8 CHAIRPERSON ANDERSON: So, this then will be  
9 #3 -- this will be #10?

10 MR. KLINE: This will be #11.

11 CHAIRPERSON ANDERSON: Okay, so which one is  
12 #11?

13 MR. KLINE: #11 --

14 CHAIRPERSON ANDERSON: Is it the stairs with  
15 the? --

16 MR. KLINE: There's two pictures of the back  
17 of the drycleaning.

18 CHAIRPERSON ANDERSON: Right, so which is  
19 #11?

20 MR. KLINE: This is #11.

21 CHAIRPERSON ANDERSON: Okay, so the one with  
22 the fence. Okay, all right.

1 MR. JAYARAMAN: Mr. Chair?

2 CHAIRPERSON ANDERSON: Yes?

3 MR. JAYARAMAN: I'd like to get an opinion  
4 from the chair about the admissibility of these -  
5 -

6 CHAIRPERSON ANDERSON: But he's not asking to  
7 -- he has not asked to admit them, I mean, he's  
8 identifying them.

9 MR. JAYARAMAN: Okay.

10 CHAIRPERSON ANDERSON: He's identifying them.  
11 The witness is testifying. And then he will ask  
12 to make them a part of the ev -- for us to  
13 introduce them. So, that's all he's doing at  
14 this juncture.

15 MR. JAYARAMAN: Okay.

16 CHAIRPERSON ANDERSON: You have not  
17 introduced them, you haven't asked to introduce  
18 them as yet.

19 MR. KLINE: No, we will move them as soon as  
20 we're done identifying them.

21 CHAIRPERSON ANDERSON: Right, but we haven't  
22 gotten there yet, so you can raise your objection

1 at that time.

2 MR. JAYARAMAN: Thank you.

3 MR. KLINE: All right, so you were talking  
4 about -- this is the back of the drycleaners?

5 MR. RENNINGER: Yes, so this is the back of  
6 the drycleaners. You see the structural  
7 integrity of this building? It's very porous, so  
8 on any given evening, morning, you can walk down  
9 -- so any given evening or morning -- early  
10 morning -- you walk here, and it's like a -- it's  
11 a route for rodents coming in and out of this  
12 area here. The structural integrity of this  
13 building is horrible.

14 MR. JAYARAMAN: Your honor?

15 MR. RENNINGER: Now the thing is --

16 CHAIRPERSON ANDERSON: Stop. What do you  
17 object to?

18 MR. JAYARAMAN: The witness is not a  
19 structural engineer. He's been shown by counsel  
20 to be an expert on trash management but certainly  
21 not a structural engineer so I --

22 MR. KLINE: I don't think he's testifying as

1 a structural engineer but he can certainly give  
2 us his opinion as to what he has observed.

3 CHAIRPERSON ANDERSON: I'll -- go ahead, and  
4 then I'll -- go ahead.

5 MR. RENNINGER: And I apologize, I'm not a  
6 structural engineer, I've actually had a  
7 structural engineer come in last month because  
8 we're looking at possibly renovating the building  
9 and either turning it into offices or another  
10 restaurant concept, and I actually saw the entire  
11 building from the inside out they discussed with  
12 me -- the engineer from ADI Construction -- let  
13 us know exactly how porous and open this building  
14 is. So this -- we did receive a fine from the  
15 city last -- right after the bliz -- or the big  
16 snowstorm last year, because there was a couple  
17 of dead rats on top, and they thought it was the  
18 restaurant, but actually they rescinded them  
19 because it actually belonged to this -- this  
20 building. So, here's another issue where the  
21 rodents could actually be coming from so we could  
22 probably devote a lot of time and energy to, I

1   guess whoever is in charge of rodent control in  
2   the city, to this establishment, here.

3       MR. KLINE: All right, now, have you observed  
4   rodents in and around the drycleaners?

5       MR. RENNINGER: Yeah, I mean, you know, in  
6   the back especially in the mornings when there's  
7   not a lot of foot traffic, they , you know, jump  
8   down the -- you know, hop down the little  
9   sidewalk and they go down the steps there into  
10  the building.

11       MR. KLINE: Where does the drycleaners store  
12  the trash?

13       MR. RENNINGER: Actually they store it in the  
14  alley where we used to store our trash. They  
15  have a bin out there now that they put trash in  
16  and around the dumpster.

17       MR. KLINE: Okay, and where's that relevant  
18  -- ah, relative to Ms. Hong's residence? Her  
19  house?

20       MR. RENNINGER: It's like right on the other  
21  side of her -- I guess the side of the fence  
22  there, the side and I think it's the side of the



1 fence. I don't know, is she along the alley? Is  
2 her property along the alley? I think the length  
3 of the alley? Oh, it's right there.

4 MR. KLINE: Okay, so their dumpster is along  
5 the property that runs the length of the alley,  
6 is that your testimony?

7 MR. RENNINGER: It's like, it's actually on  
8 the other side of the alley so it's like right  
9 there, yeah. So, it's like her fence and then  
10 here and then this fence, it's right here.

11 MR. KLINE: And do you know what their trash  
12 consists of from the drycleaners?

13 MR. RENNINGER: Junk, hangers, excess food  
14 that they get I guess from any of the restaurants  
15 on the block when they go on break, mechanical  
16 parts.

17 MR. KLINE: And have you seen their trash  
18 bags?

19 MR. RENNINGER: Yeah. Yeah, sometimes. I  
20 mean some of the stuff is bagged, some of it  
21 isn't.

22 MR. KLINE: And in terms of somebody

1 accidentally throwing something over the fence,  
2 in your opinion, based on the locations of the  
3 dumpsters, yours and the drycleaners, does it  
4 seem that it would be more likely from the  
5 drycleaners or from the restaurants by that.

6 MR. RENNINGER: I can't really say neither,  
7 but I do know that, you know, we do also have  
8 cases late in the evening -- I mean, we have a  
9 lot of homeless -- and this isn't just kind of  
10 shifting, but this is like late in the evening  
11 times we have a lot of homeless. We just had a  
12 guy, you know, about three weeks ago defecating  
13 in the alley and, you know, wiped his rear end  
14 and left the remnants there for us to clean up so  
15 it's, you know, it's reality. This is reality.  
16 There's a lot of homeless on Capitol Hill and  
17 they rummage through our trash and they -- I  
18 mean, so what may look good when we leave at  
19 night may not be so great in the morning.

20 MR. KLINE: Okay, so the point is it's not  
21 just you and your employees that have access to  
22 this alley, correct?

1           MR. RENNINGER: That's correct. Anybody can  
2 walk down the back.

3           MR. KLINE: And, in fact, in your experience,  
4 anybody does.

5           MR. RENNINGER: Absolutely.

6           MR. KLINE: I'll show you applicant's #13.  
7 Can you identify that?

8           CHAIRPERSON ANDERSON: What document is that?

9           MR. RENNINGER: That is a pressure washer.

10          CHAIRPERSON ANDERSON: Which document?

11          MR. RENNINGER: Oh, I'm sorry. I'm sorry,  
12 this is a pressure washer that we purchased to  
13 pressure wash the front on Pennsylvania Avenue  
14 and then we also do the back or when it's earlier  
15 in the morning or if I see fit we don't run the  
16 pressure washer we use a hot water hose which is  
17 in the back of Bernaise restaurant which is right  
18 on the alley. And that is used to spray out --  
19 spray down the back walkway that goes to the  
20 walk-in and that's also to hose down the fryer  
21 vent, the grease vent and also the dumpster area.  
22 There's certain times where the French drain gets

1 too full so I advise just give a sweep and then  
2 try to eliminate, you know, some of the -- I  
3 guess you could say trail -- that's left by  
4 rodents because that go through the trash area,  
5 you know they defecate to leave scent for, you  
6 know, and urinate so I have them try to, you  
7 know, I say, I tell my employees one bottle of  
8 bleach or one bottle of chloro for the Hispanic  
9 guys and they go back and they pour it in the  
10 corners to try to alleviate some of the scent.  
11 It doesn't get rid of everything but we do our  
12 best.

13 MR. KLINE: And how often is that done?

14 MR. RENNINGER: That's done daily. The  
15 laying of the bleach I try to really do it in the  
16 summer, especially since, you know, we had our  
17 hearing back in the spring, you know, kind of was  
18 just trying to put myself in the residents' shoes  
19 a little bit as far as alleviating some scent.

20 MR. KLINE: Okay. I'll show you applicants'  
21 #14. What is that?

22 MR. RENNINGER: That is the mop sink to

1 Bernaise. You can see the hoses are hooked up to  
2 the hot water valve. If I deem that it's either  
3 too noisy or I don't feel that the pressure  
4 washer is necessary that day due to the height of  
5 the water in the French drain or it may be too  
6 early, I have them use the hot water, especially  
7 a lot of times coming off the grease vat it helps  
8 to kind of dissipate -- the hot water and soap  
9 kind of dissipate the grease a little bit better  
10 than actually just using some full blasts and  
11 blowing the grease all over the place. In case  
12 my employees miss, you know. You're dealing  
13 with, you know, a lot of them minimum wage guys  
14 that don't speak English so sometimes you gotta  
15 follow behind them if they're in a hurry and  
16 they're trying to get the job done for the day.

17 MR. KLINE: All right, now in terms of -- you  
18 manage all these people, is that correct?

19 MR. RENNINGER: Yeah, I manage the managers  
20 and a lot of times I manage the people, yeah.

21 MR. KLINE: All right, so we have the  
22 employees, we have the managers, you?

1 MR. RENNINGER: Yeah.

2 MR. KLINE: And then the owners.

3 MR. RENNINGER: Right.

4 MR. KLINE: So in terms of what happens on a  
5 day to day basis, you're involved in that?

6 MR. RENNINGER: Yes.

7 MR. KLINE: You're more involved than the  
8 ownership, correct, than the ownership?

9 MR. RENNINGER: Oh, absolutely, yeah.

10 MR. KLINE: In terms of these problems and  
11 frustrations with employees, we talked about a  
12 penalty system --

13 MR. RENNINGER: Yeah.

14 MR. KLINE: -- were you around when that --

15 MR. RENNINGER: No I wasn't around for that.  
16 You know, how I kind of handle the employees is a  
17 case by case basis because, you know, a lot of  
18 times you just don't know who's doing it. But  
19 typically you'll see, and there's folks that are  
20 out there, and maybe some of the residents see,  
21 but I have the managers out there with me doing  
22 it. IF they can't get the employees to do it,

1    then they're going to do it and I'm the person  
2    that's out there with them. And it tends to, you  
3    know, help. It's not perfect, though. I mean,  
4    there's days where I've got trash overflowing and  
5    I'm like, 'hey, didn't I just say it goes into  
6    the -- it goes into the walk-in cooler? I don't  
7    care how it's stacked, but those things have to  
8    be flushed.' And it's a frustration, but, you  
9    know, you fix it and then you move on. Just,  
10   yeah.

11       MR. KLINE: Okay, so, you're talking about  
12   it's not perfect --

13       MR. RENNINGER: Yeah.

14       MR. KLINE: In your experience, which  
15   stretches over 20 years, did you presumably  
16   manage people when you were in the navy as well?

17       MR. RENNINGER: Yeah.

18       MR. KLINE: Is it pretty good?

19       MR. RENNINGER: Yeah, it's pretty good. I  
20   mean, you're not going to be able to eat a meal  
21   off the ground but, you know --

22       MR. KLINE: In the alley we're talking about.

1           MR. RENNINGER: Yeah, exactly. But I mean I  
2 truly, honestly believe that, you know, we can  
3 pull up pictures here and there from, like, June  
4 and you can pull up pictures from, you know, last  
5 week, and you're going to have bad days. But  
6 it's not -- it's not longer than a few hours,  
7 it's not longer than when they come pick up that  
8 trash and I guarantee that whole area is clean by  
9 the time that trash is picked up and the  
10 receptacles are brought back, it's better than  
11 it's ever been. I don't care what anybody says,  
12 I know for a fact and I've given my personal  
13 phone number out, I've given my e-mail out,  
14 anybody if there's an issue, can say, 'hey, John,  
15 hey I think you've got a little bit of grease  
16 spill out back, I'm concerned, or hey, it's  
17 starting to stink a little bit,' I'll handle it.  
18 I will. That's why I'm here. I have -- I  
19 actually just three weeks ago, or four weeks ago  
20 when it was like 100 something degrees, it was  
21 just nasty, and I'm just like, I'm going back in  
22 the dumpster and I'm thinking -- the dumpster



1 really stinks, right? I know this is going to  
2 bother somebody. I know for a fact. And so what  
3 did I do? I called KMG and said 'hey, I need the  
4 recycled cleaned out. Your guys are pulling the  
5 bags out and all the juice that's in the bottom  
6 of the bags is collecting in the bottom of the  
7 dumpster. It happens. It happens in every  
8 single dumpster. It happens in every single  
9 receptacle. What did KMG do? They came out and  
10 they exchanged it the next day. They exchanged  
11 it.

12 MR. KLINE: And do you -- so, you said you  
13 manage the employees --

14 MR. RENNINGER: Yes.

15 MR. KLINE: -- are you involved in policing  
16 the trash area?

17 MR. RENNINGER: Yeah, I look at it every day.

18 MR. KLINE: Okay. How often every day?

19 MR. RENNINGER: I typically try to walk to  
20 the back alley -- I don't want to do that, but I  
21 have to do that, unless I'm sitting in a meeting  
22 like this or when I'm not there -- I check it.

1 Is it perfect when I go back there? No. But  
2 that's why I check it and I fix it.

3 MR. KLINE: Given your 20 years of experience  
4 in food service do you believe that the measures  
5 that are in place there to reasonable to control  
6 the environs of the three establishments?

7 MR. RENNINGER: I have -- I'm doing the best  
8 with the area that I have, yes.

9 MR. KLINE: Okay, let's talk about that, with  
10 the area that you have. Are there specific  
11 challenges with the area that you have?

12 MR. RENNINGER: Yeah. The French drain is --  
13 it fills up, you know, and then you've got to  
14 drain it. You know, you're down in an alley  
15 where the trucks can't come down, they've got to  
16 wheel the dumpsters down and then wheel the  
17 dumpsters back and come up and wheel 11 totes  
18 from, you know, it's not just coming down an  
19 alley, you're coming down an alley and then  
20 you're making a right and you're going behind  
21 three restaurants and the drycleaner, and you're  
22 pulling totes and they're wheeling them down and

1 they're wheeling them back. There's a lot that  
2 goes on in that, but we did it. I mean, she  
3 pretty much said this is what we're doing and I  
4 had to execute it. Now, what happens in between,  
5 day to day, I deal with. If I get it -- if  
6 there's an issue I deal with it.

7 MR. KLINE: So, it would seem you have two  
8 main challenges in dealing with it. One is the  
9 employees from time to time, right?

10 MR. RENNINGER: Right, yeah.

11 MR. KLINE: And second is your contractor.

12 MR. RENNINGER: Yeah. And, you know, I just  
13 each out to them in e-mail and say, 'hey your  
14 guys spilled crap down the street, this is  
15 unacceptable,' and they say, 'we'll take care of  
16 it, we apologize,' and we clean it up. We clean  
17 it up. That's what we do.

18 MR. KLINE: All right, let me show you  
19 applicant's #14. This is labeled exhibit #5 in  
20 our packet. If this is typical of an exchange  
21 with the contractor.

22 MR. RENNINGER: Is this typical? No, but, I

1 mean, it does happen, yeah. That's like, this I  
2 can pretty much -- yeah, this is like a day that  
3 they spilled going down -- I can tell those are  
4 mussels. Yeah, they wheeled them down, they  
5 tried to jam as many bags as possible into a tote  
6 and it spilled and then, guess what?

7 MR. SHORT: Can you show us that picture? We  
8 can't see it.

9 MR. KLINE: You don't have that?

10 CHAIRPERSON ANDERSON: I think we have it out  
11 of order, the one I have is [inaudible 7:49:38].

12 MR. RENNINGER: If it's spilled we clean it  
13 up as soon as we see it. It's not something that  
14 we just leave.

15 CHAIRPERSON ANDERSON: I have this -- I'm  
16 sorry, this is number?

17 MR. KLINE: It was #5 in our original packet.

18 CHAIRPERSON ANDERSON: And I thought we were  
19 at #15, what number are we at now?

20 MR. KLINE: Well, I relabeled it as #14  
21 because it was initially exhibit #5.

22 CHAIRPERSON ANDERSON: I know. But I think

1 I'm going to have you -- at the end -- go through  
2 the documents because I don't think they're  
3 correct, I'll have to re-label them.

4 MR. RENNINGER: So, what you see is trash on  
5 the ground that came out from a bag and when we  
6 see it we clean it up. Let's say this, on a  
7 Saturday, you know, if I don't get in until 9:00  
8 there might be -- and they come at 8:00, this  
9 might be on the ground at 9:00 when I get in.  
10 There might be some. What do we do? We clean it  
11 up. Just like at home, just like with anything,  
12 if there's a mess you clean it up. That's what  
13 we do.

14 MR. KLINE: Is there anything else that you  
15 think you should be doing in connection with  
16 these three establishments to reasonably manage  
17 the trash/litter in the environment?

18 MR. RENNINGER: Other than have someone sit  
19 there on a chair 24 hours a day, you know, no.

20 MR. KLINE: Do you think that's reasonable?

21 MR. RENNINGER: This is reasonable,  
22 absolutely.

1           MR. KLINE: But do you think it's reasonable  
2 to have someone sit there on a chair and watch.

3           MR. RENNINGER: No, absolutely not.

4           MR. KLINE: Okay, just to be clear.

5           MR. RENNINGER: No. But like I stated  
6 before, like I'm totally, like 100%, the point of  
7 contact. It's been stated. It's not perfect.  
8 My personal cell phone is there and my e-mail is  
9 there. I get photos of the areas every night  
10 and if there's any issues everyone has my phone  
11 number. I have received absolutely zero calls.  
12 Zero. I'm not saying there hasn't been any  
13 issues, but I'm saying I've received zero calls  
14 and one e-mail. And one e-mail only was to say  
15 that they appreciated the efforts that had been  
16 put back there. That's what I've gotten. And  
17 that's it. I'm willing to work with any of these  
18 folks, I swear. I mean, I am. That's why I'm  
19 here.

20          MR. KLINE: All right. And in executing the  
21 trash management plan, you have procedures in  
22 place and the employees are aware of what's

1 required on a daily basis?

2 MR. RENNINGER: Yes. We have an operations  
3 manual and then each employee has -- each  
4 employee has, you know, expectations that are  
5 given to them, obviously, by their supervisor.  
6 You have shift supervisors, you have your  
7 assistant manager and then you have your GMs. If  
8 there's an issue, you know, if e-mails go out and  
9 phone calls go out and like I say every night I  
10 have -- it's an app that we have and it's called  
11 shift notes, and my managers, my closing managers  
12 send me -- I get photos of the walk-in cooler and  
13 I get photos of the trash area. Two weeks ago I  
14 got one from a new manager. I called up, I said,  
15 "hey, what's the deal with the picture?" They  
16 said, "what's wrong with the picture?" "Well,  
17 why do you think you're sending me a picture of  
18 the trash area?" There's kind of silence. I  
19 said, "you're supposed to show me that there's no  
20 trash on the ground. There's a couple of pieces  
21 of plastic and a piece of cardboard. Clean it  
22 up, resend the photo." This is what I'm doing.

1 Is it perfect? No. I'm going to say it again,  
2 it's not perfect. These are the measures that we  
3 put in place.

4 MR. KLINE: But you get this report every  
5 night?

6 MR. RENNINGER: Every night it comes in, it  
7 gets e-mailed to me from Good Stuff Eatery and We  
8 The Pizza send it to me.

9 MR. KLINE: And you require that a picture's  
10 included?

11 MR. RENNINGER: Yeah, every night. Every  
12 night.

13 MR. KLINE: So that you can determine whether  
14 the area is cleaned up.

15 MR. RENNINGER: Exactly. Now, like I said  
16 what happens between midnight and 7:00 in the  
17 morning is a different story.

18 MR. KLINE: Let's talk about your work  
19 schedule.

20 MR. RENNINGER: Yeah.

21 MR. KLINE: When do you get there?

22 MR. RENNINGER: It all depends. Some weeks



1 I'll start later in the day because, you know, I  
2 got four kids so I come from Dumfries. You know,  
3 some days are 9:00 to 7:00, other days I'm there  
4 at 6:00 in the morning to beat the traffic in and  
5 I'm there 'til, you know, 6:30, 7:00, sometimes  
6 8:00 at night.

7 MR. KLINE: Five days a week?

8 MR. RENNINGER: Most of the time six. I'll  
9 just alternate some days with Saturdays, some  
10 days with Sundays for my sick day.

11 MR. KLINE: Okay. And when you're not there  
12 who do you rely on to make sure that this is  
13 executed?

14 MR. RENNINGER: Typically the We The Pizza  
15 manager because I have personally put We The  
16 Pizza in charge of handling the dumpster area  
17 that I oversee later, and I have Good Stuff  
18 assigned to making sure that the walk-in cooler  
19 is being handled. So, I have like managers, I  
20 have accountability, they have accountability for  
21 a certain area, even though they might not deal  
22 with that solely, that's what they're going to

1 deal with or they'll be accountable for.

2 MR. KLINE: I want to show you what we're  
3 marking as applicants' #16 and #17. I'll ask you  
4 to identify what that is.

5 CHAIRPERSON ANDERSON: Mr. Kline, now you're  
6 confusing me. Last document you said was #14.  
7 Of that I'm positive, so I think the last  
8 document was, so you tell me, because I have two  
9 documents as #14. So you let me know where you  
10 are now.

11 MR. KLINE: What's the first one you have?

12 CHAIRPERSON ANDERSON: The last document you  
13 told me was #14 but I told you that I have two  
14 #14s so --

15 MR. KLINE: Well, it's the first #14 --

16 CHAIRPERSON ANDERSON: Which is your original  
17 exhibit #5? That's marked as your #5? You told  
18 me that was #14.

19 MR. KLINE: That's what I have yeah.

20 CHAIRPERSON ANDERSON: So this is now #15.

21 MR. KLINE: Right, okay. All right, so what  
22 is that?

1 CHAIRPERSON ANDERSON: I don't know what  
2 document #15 is. Can you give me something --

3 MR. KLINE: It was originally applicant's  
4 exhibit #7.

5 CHAIRPERSON ANDERSON: Number seven? All  
6 right.

7 MR. RENNINGER: So, this right here is the  
8 general manager's daily checklist for Good Stuff.  
9 It kind of tells them what to walk through and to  
10 look for in the mornings.

11 MR. KLINE: Are there specific -- there are  
12 several documents here, correct?

13 MR. RENNINGER: Yeah.

14 MR. KLINE: Your general manager check  
15 sheets?

16 MR. RENNINGER: Yeah, so like in the  
17 mornings, you know, they check in dumpster  
18 situation. That's like one of the big things.

19 MR. KLINE: Is that the first thing they're  
20 supposed to do?

21 MR. RENNINGER: It's the second thing, yeah.  
22 'Cause you gotta walk in the front. Yeah, walk

1 in the restaurant, check on the dumpster area,  
2 yeah. Now, is -- can I attest that, you know,  
3 this happened like before I got here? I mean,  
4 I'm sure it did with regularity, I don't know,  
5 but I know that from when I arrived --

6 MR. KLINE: Let me ask you this. Are you  
7 completely confident that in the last year since  
8 you've been there that this is has been carried  
9 out under your management?

10 MR. RENNINGER: Yes. And when it hasn't  
11 someone's held accountable because you'll be able  
12 to see probably by evidence that it wasn't done  
13 that day.

14 MR. KLINE: But you're -- so you, personally,  
15 are managing the vendor to make sure that they do  
16 what they're supposed to do, correct?

17 MR. RENNINGER: Yeah.

18 MR. KLINE: And also managing the employees  
19 to make sure they do what they're supposed to do?

20 MR. RENNINGER: Exactly.

21 MR. KLINE: All right, I'm going to ask you  
22 again because I think it's really important, and

1 I want to make sure we're clear on it. You  
2 talked about someone sitting there 24 hours,  
3 other than that, which I don't think is  
4 reasonable and I don't think anyone else would,  
5 is there anything else that needs to be done here  
6 to manage this trash situation?

7 MR. RENNINGER: No, but maybe the French  
8 drain, the city handling that, but that's beyond  
9 our control.

10 MR. KLINE: Right. You're dealing with that  
11 by using this --

12 MR. RENNINGER: Yeah, the electric  
13 submersible pump. We just actually, we just got  
14 it a couple of weeks ago, just due to all the  
15 heavy rains we've been having. I didn't really  
16 have an issue with it overflowing until now. So,  
17 we got a pump. That's all we can do.

18 MR. KLINE: All right, that's all I have.  
19 Could we take three minutes before we go to  
20 cross?

21 CHAIRPERSON ANDERSON: All right, that's  
22 fine. You're still under oath and you're not --

1 please do not speak to your attorney or your  
2 boss. [interlude] All right, we're back on the  
3 record. Now, it's cross examination Mr.  
4 Jayaraman.

5 MR. JAYARAMAN: A question for clarification?

6 CHAIRPERSON ANDERSON: Yes, sir.

7 MR. JAYARAMAN: Does the counsel have to  
8 enter these in since he's discussed them before I  
9 proceed with the cross examination?

10 CHAIRPERSON ANDERSON: No, it's not -- no,  
11 there you could refer to them. I would assume at  
12 the end of this witness that's when he'll move,  
13 or before he closes his case that he'll move, ask  
14 us to move the documents into evidence, and so  
15 then we'll go through all the documents and I'll  
16 give you the opportunity to speak. But if you  
17 want to ask questions on any of the documents you  
18 have the right to do that.

19 MR. JAYARAMAN: My first question is, you  
20 have huge, very extensive background in working  
21 with and in the food industry --

22 MR. RENNINGER: Yes, sir.

1           MR. JAYARAMAN: So, when you -- you said you  
2 started a year ago approximately?

3           MR. RENNINGER: Yeah.

4           MR. JAYARAMAN: Okay. So, when you arrived  
5 there, on a scale of one to five, five is the  
6 best, one to five, what was the condition of the  
7 back trash area?

8           MR. RENNINGER: You said?

9           MR. JAYARAMAN: On a scale of one to five.

10          MR. RENNINGER: You said five is what?

11          MR. JAYARAMAN: One being the worst, five  
12 being the best.

13          MR. RENNINGER: Probably a -- I don't know if  
14 I can even answer that. Maybe a, some days a  
15 four, some days a three.

16          MR. JAYARAMAN: When you first started there.  
17 You started in this job and they assigned you to  
18 these establishments and they said, 'you know  
19 what, we really need you, John, to help out with  
20 this and get this under control.' And you went  
21 there and, you know, as an expert in that area  
22 you'd assess it, right? So, what was your?

1           MR. RENNINGER: Well, I didn't do an official  
2 assessment of the area, so like, you know, as I  
3 seen things we just adjusted. Like a prime  
4 example, I think, right after I checked, after I  
5 got on board there, you know, there was a lot of  
6 these white trays out back. They were dough  
7 trays, and I said, 'hey, what do we do with  
8 these?' And they said, 'well, the company's not  
9 taking them' and they were stacked kind of high  
10 so what we'd do was I called and asked the trash  
11 service 'hey, what do we do about this?' and they  
12 said, 'we do a bulk trash removal' and I said,  
13 'can you come out and give me an assessment and  
14 get rid of these big white -- these stacks of  
15 white trays.' And they came and got rid of them.

16           MR. JAYARAMAN: Do you think that the  
17 practices that they had in place when you got  
18 there were sufficient to handle the amount of  
19 trash that was generated?

20           MR. RENNINGER: Yeah, I think they were, but  
21 I think it all depends on, you know, the season.  
22 Typically, I think -- I don't know how they did



1 it before. You know what I mean? So, like I  
2 came in and, you know, we went from one a day  
3 pickup to two a day pickups. And that wasn't a  
4 decision that was made by me, that was just the  
5 decision that 'hey, ask the company to do two a  
6 day pickups.' So, okay. We did two a day  
7 pickups.

8 MR. JAYARAMAN: So, you were told to do  
9 certain things. Were you given specific  
10 instructions on how to manage the trash or was  
11 that left to your expertise?

12 MR. RENNINGER: A lot of it was left to me,  
13 but they're also, you know, each restaurant had  
14 to ensure that the manager of each restaurant had  
15 to ensure that the back area was being handled.  
16 You know, and to be honest with you, like, I knew  
17 there was rodents in D.C. from when I was at the  
18 House but, you know. We had like an enclosed  
19 area so it didn't really -- during the day you  
20 never saw anything, you know what I mean? I  
21 think, you know, the nocturnal -- you know.

22 MR. JAYARAMAN: Let me back up for a minute.

1 MR. RENNINGER: Yeah.

2 MR. JAYARAMAN: You testified that you worked  
3 for Sunnyside Restaurant Group, right?

4 MR. RENNINGER: Mm hmm.

5 MR. JAYARAMAN: And according to what was  
6 read into the record Sunnyside Restaurant Group  
7 is the -- trades as Good Stuff Eatery, right?

8 MR. RENNINGER: Say that one more time.

9 MR. JAYARAMAN: Sunnyside Restaurant Group  
10 trades as Good Stuff Eatery.

11 MR. RENNINGER: Okay.

12 MR. JAYARAMAN: So you worked for Sunnyside  
13 Restaurant Group. So, have you been -- how was  
14 it then you were given the responsibility for the  
15 other establishments, is that right?

16 MR. RENNINGER: That's right.

17 MR. JAYARAMAN: Okay, so you actually work  
18 for all three of these establishments.

19 MR. RENNINGER: Okay, yeah.

20 MR. JAYARAMAN: So, we talked about the  
21 building right next to -- in between all the  
22 establishments, the drycleaners.

1 MR. RENNINGER: Right.

2 MR. JAYARAMAN: And you testified that you  
3 see rats coming out of that establishment, right?  
4 On a regular basis you said?

5 MR. RENNINGER: Yes.

6 MR. JAYARAMAN: How often would you say, a  
7 week, do you see them coming in and out?

8 MR. RENNINGER: I couldn't tell you, 'cause  
9 it all depends on what time of day I'm walking  
10 through there.

11 MR. JAYARAMAN: Okay.

12 MR. RENNINGER: So, I can't even give you an  
13 average, but I've seen them.

14 MR. JAYARAMAN: Daily? Weekly? Monthly?  
15 Once a month? Five times a month?

16 MR. RENNINGER: I can't give you an accurate  
17 count. But, counting more --

18 MR. JAYARAMAN: Would it be closer to a  
19 couple of times a week or a couple of times a  
20 month?

21 MR. RENNINGER: I'd probably say a couple of  
22 times a week.

1           MR. JAYARAMAN: Okay, a couple of times a  
2 week. So, they're coming from there. Where are  
3 they headed?

4           MR. RENNINGER: I'm not saying they're coming  
5 from there. I see them go down in there.

6           MR. JAYARAMAN: Okay, so they're going down  
7 in there and you see them come out too, right?

8           MR. RENNINGER: Mm hmm.

9           MR. JAYARAMAN: So, where are they headed?  
10 Or where do they --

11          MR. RENNINGER: I don't know because when  
12 they see me they cut back down the steps.

13          MR. JAYARAMAN: Okay. Do you have any idea  
14 from your expertise what they might be looking  
15 for when they come out?

16          MR. RENNINGER: I don't know. Do you know?

17          MR. JAYARAMAN: I suspect it might be food.  
18 That's just animal instincts, let's call it that.

19          MR. RENNINGER: Okay.

20          MR. JAYARAMAN: So -- and the only place I  
21 know to be coming out of there would be those  
22 trash areas and let me ask a question. And I'm

1 going to point to this cooler which is exhibit  
2 #20 and #21.

3 CHAIRPERSON ANDERSON: #20 and #21 from?

4 MR. JAYARAMAN: The applicant's. Actually,  
5 the investigator. I'm sorry. From the  
6 investigator.

7 MR. KLINE: Also applicant's #8 And #10 for  
8 the record.

9 CHAIRPERSON ANDERSON: All right. Let me see  
10 again, please.

11 MR. SHORT: There's one with the cooler  
12 closed, too.

13 CHAIRPERSON ANDERSON: Go ahead.

14 MR. JAYARAMAN: What are these things that  
15 are on there, sir?

16 MR. RENNINGER: They're trash totes.

17 MR. JAYARAMAN: Okay, how big are they?

18 MR. RENNINGER: I'm not quite sure the exact  
19 size but they hold about three or four bags --  
20 trash bags in them.

21 MR. JAYARAMAN: You think they hold three or  
22 four bags?

1 MR. RENNINGER: Mm hmm.

2 MR. JAYARAMAN: And they're about how tall?

3 [inaudible 8:07:33]

4 MR. RENNINGER: Yeah about.

5 MR. JAYARAMAN: How tall is the actual walk-  
6 in? As tall as you are?

7 MR. RENNINGER: Possibly.

8 MR. JAYARAMAN: Okay. So it takes about two  
9 or three bags in the recyclable like this. What  
10 happens with all this space to the ceiling?

11 MR. RENNINGER: Oh, that's for air  
12 circulation.

13 MR. JAYARAMAN: So, that's for air  
14 circulation, so you don't use that at all?

15 MR. RENNINGER: For air circulation, that's  
16 what we use it for.

17 MR. JAYARAMAN: And does it have a fan?

18 MR. RENNINGER: It does have a fan.

19 MR. JAYARAMAN: It does have a fan, okay.  
20 So, the fan pulls air out?

21 MR. RENNINGER: That's right.

22 MR. JAYARAMAN: Okay.

1 MR. RENNINGER: And pushes it back down.

2 MR. JAYARAMAN: Okay. So, it recirculates  
3 the air and pulls it out, so that's how the  
4 refrigeration works.

5 MR. RENNINGER: I mean, probably there's a  
6 compressor and the fan pushes the air down and  
7 then it sucks it back out and rotates it, it  
8 circulates.

9 MR. JAYARAMAN: It sucks out the hot air.

10 MR. RENNINGER: It just circulates all the  
11 nice air around in there and keeps the air  
12 flowing.

13 MR. JAYARAMAN: Do you remember when we first  
14 met it was April ANC committee meeting. You  
15 remember that?

16 MR. RENNINGER: Yes.

17 MR. JAYARAMAN: At that meeting do you  
18 remember a discussion regarding these totes  
19 versus larger totes?

20 MR. RENNINGER: I do.

21 MR. JAYARAMAN: Double sized totes, which I  
22 think that was the terminology that was used. Do

1   you guys use those double sized ones that you  
2   talked about?

3           MR. RENNINGER: Absolutely not.

4           MR. JAYARAMAN: Is there a reason?

5           MR. RENNINGER: Yes, because we didn't work  
6   with the Bowie Trash Company. And those would  
7   have had to have been constructed by Bowie Trash  
8   Company and we didn't use them and I ruled  
9   against using them.

10          MR. JAYARAMAN: Okay. The reason is?

11          MR. RENNINGER: The reason being is I felt  
12   they were too large to move up and down the alley  
13   or the walkway in the back.

14          MR. JAYARAMAN: So, I remember that  
15   conversation. Maybe you can clarify. Did they  
16   look something closer to these, the ones with  
17   laundry, and this is exhibit #19 from the  
18   inspector's?

19          MR. RENNINGER: I'm not quite sure if they  
20   would look like that because I wasn't part of the  
21   design discussion.

22          MR. JAYARAMAN: But roughly it would be that



1 height?

2 MR. RENNINGER: I'm not quite sure.

3 MR. JAYARAMAN: Okay.

4 MR. RENNINGER: Because it has to clear the  
5 door.

6 MR. JAYARAMAN: So you voted against using  
7 them, can you state why you recommended against  
8 them?

9 MR. RENNINGER: Why I recommended? Because  
10 we didn't use the Bowie company for one.

11 MR. JAYARAMAN: Mm hmm.

12 MR. RENNINGER: And two, I didn't feel they  
13 would fit down the walkway.

14 MR. JAYARAMAN: In terms of the width or the  
15 length or what?

16 MR. RENNINGER: The width.

17 MR. JAYARAMAN: So you'd have to think about  
18 which wide --

19 MR. RENNINGER: And I didn't get into  
20 discussions with KMG about constructing those.

21 MR. JAYARAMAN: Okay. So, but you do  
22 remember the conversation where you said you

1 would, like, explore that option?

2 MR. RENNINGER: It was explored.

3 MR. JAYARAMAN: And so you did, you're saying  
4 you actually did explore that and have determined  
5 that it's better to use half the space than to  
6 have all the trash, is that right?

7 MR. RENNINGER: That's right.

8 MR. JAYARAMAN: Okay. It's better to have  
9 that empty space than --

10 MR. RENNINGER: I have the empty space for  
11 air circulation.

12 MR. JAYARAMAN: It's cooled, right?

13 MR. RENNINGER: But it needs air circulation.

14 MR. JAYARAMAN: But it's cooled? This is  
15 cooled. Okay. Great. So, do you think that the  
16 cooler is being the most efficient that it can  
17 be?

18 MR. RENNINGER: Yes.

19 MR. JAYARAMAN: Okay. Approximately how much  
20 of the trash that's generated from the three  
21 establishments would go in there? Would fit in  
22 there?

1           MR. RENNINGER: That all depends on how high  
2 you stack it.

3           MR. JAYARAMAN: Correct, exactly. What's the  
4 normal size that you'd stack those?

5           MR. RENNINGER: Until it's full.

6           MR. JAYARAMAN: Until each one of those totes  
7 is full, so you only stack it 'til it's full and  
8 then you close it up and that's it?

9           MR. RENNINGER: No, no, no. We don't close  
10 it because the actual room is enclosed so we  
11 don't need to close it.

12          MR. JAYARAMAN: Okay, so do you stack on top?

13          MR. RENNINGER: It all depends on if the --  
14 once we fill the dumpsters, after that, and if  
15 there's any overflow then they go back into the  
16 walk-in and we utilize more space, but that's  
17 what we do.

18          MR. JAYARAMAN: So, you use the exterior  
19 first and then you go in here?

20          MR. RENNINGER: Nope, nope, I said we use the  
21 interior, then the exterior, then we move back to  
22 the interior. So, there's no trash that's

1 exposed to the outside elements.

2 MR. JAYARAMAN: Okay, so you do -- I'm just  
3 trying to get clarification here. So, there's  
4 the totes and you fill those up, right?

5 MR. RENNINGER: Yeah.

6 MR. JAYARAMAN: And once those are full  
7 whatever trash is generated beyond that -- and  
8 we're talking food trash, not recycling, right?

9 MR. RENNINGER: Right.

10 MR. JAYARAMAN: Right. And so that starts --  
11 you start to fill up the ones on the exterior.

12 MR. RENNINGER: That's right.

13 MR. JAYARAMAN: Right? So, once those are  
14 full --

15 MR. RENNINGER: Right.

16 MR. JAYARAMAN: -- then you come back and  
17 load these even higher.

18 MR. RENNINGER: Or in front of them.

19 MR. JAYARAMAN: You stack them outside the  
20 building?

21 MR. RENNINGER: No, not outside.

22 MR. JAYARAMAN: What does that mean?

1           MR. RENNINGER: Well, because there's also  
2 room to maneuver the totes around so you have a  
3 little excess space.

4           MR. JAYARAMAN: So, you just stack and move  
5 them around?

6           MR. RENNINGER: But with two -- with two-a-  
7 day pickups we don't have to worry about that.

8           MR. JAYARAMAN: So, again, that begs the  
9 question, why is there a need, if you're able to  
10 stack them in here, is there a need to even do  
11 this back and forth? Why couldn't the food waste  
12 on two-a-days be put in here?

13          MR. RENNINGER: Because even if it was  
14 stacked to the ceiling it wouldn't hold enough.

15          MR. JAYARAMAN: So, you're testifying that  
16 you generate so much trash that it's not possible  
17 to fit it in here and, in fact, that sometimes  
18 this fills up and you fill up the exterior one  
19 and you have to come back to use this again?

20          MR. RENNINGER: If there's a one-a-day  
21 pickup.

22          MR. JAYARAMAN: So, since you've been there,

1 has there ever been one-a-day pickups or is it  
2 usually two?

3 MR. RENNINGER: On Sundays.

4 MR. JAYARAMAN: On Sundays.

5 MR. RENNINGER: On Sundays.

6 MR. JAYARAMAN: That's the only day?

7 MR. RENNINGER: That's the only day there's  
8 one a day.

9 MR. JAYARAMAN: Okay.

10 MR. RENNINGER: Unless it's a holiday.

11 MR. JAYARAMAN: Right. So, again, how often  
12 does this happen where you fill -- put it in here  
13 and go on and fill the outside ones and come  
14 back?

15 MR. RENNINGER: Not often.

16 MR. JAYARAMAN: Not often, so --

17 MR. RENNINGER: I couldn't even tell ya how  
18 many days out of the week that would happen or  
19 days out of the month that would happen. It just  
20 happens every now and then.

21 MR. JAYARAMAN: So, now I'm confused. You  
22 say you go in here, outside and back in here, but

1    then you're saying it rarely ever happens.

2           MR. RENNINGER:   That's right.

3           MR. JAYARAMAN:   So --

4           MR. RENNINGER:   Because we get two-a-day  
5   pickup.

6           MR. JAYARAMAN:   Right.  So, but you're  
7   telling me that food waste cannot fit in here  
8   even with two-a-day pickup.  That you have to use  
9   the outside.

10          MR. RENNINGER:   Well, yeah, absolutely.  You  
11   have to use both.

12          MR. JAYARAMAN:   Can you tell me what time  
13   your pickups are?

14          MR. RENNINGER:   It all depends.  Some days  
15   they get there at 7:00.  Some days they get there  
16   at 9:00 a.m.

17          MR. JAYARAMAN:   Okay, so --

18          MR. RENNINGER:   That's the first -- that's  
19   the first pickup.

20          MR. JAYARAMAN:   The first pickup is between  
21   7:00 and 9:00 a.m., right?

22          MR. RENNINGER:   Right.

1           MR. JAYARAMAN:   Okay.   What would be the  
2   approximately range of time for the second  
3   pickup?

4           MR. RENNINGER:   Sometimes 1:30, 2:00.

5           MR. JAYARAMAN:   1:30 or 2:00.   So, say it's  
6   between 7:00 and 9:00 and 10:00, 11:00, 12:00,  
7   1:00 -- so it's about six to eight hours between  
8   the first pickup and the second pickup, right?

9           MR. RENNINGER:   Something like that, yeah.

10          MR. JAYARAMAN:   Okay.   So -- but then from  
11   2:00 until 7:00 the next day which is, you know,  
12   17 hours -- 17 hours.

13          MR. RENNINGER:   The last restaurant closes at  
14   11:00 so it's probably maybe about eight or nine.

15          MR. JAYARAMAN:   So, the last restaurant  
16   closes -- even then -- you have a pickup between  
17   -- three to five hours between the time of your  
18   morning pickup and your afternoon pickup.   Right?

19          MR. RENNINGER:   Mm hmm.

20          MR. JAYARAMAN:   Trash.   And I can totally see  
21   why this container would not get filled up in  
22   that amount of time.   But, you're telling me that



1   that does get filled up in that time. In that  
2   three to five hour period between the first and  
3   the second pickup that requires you to keep it  
4   outside. Or --

5           MR. RENNINGER: No, it doesn't -- I don't  
6   take it outside.

7           MR. JAYARAMAN: Okay.

8           MR. RENNINGER: I put the trash in the  
9   cooler. When it's filled, then we shut the door  
10   and then we start on the dumpsters. And then  
11   after that the trash man comes and he picks it up  
12   and wheels it down, he empties it out. He puts  
13   the totes back and then we start the process  
14   again. I haven't really done a real, you know,  
15   exact computation of the amount but this is what  
16   we do and it seems to be working. Okay, I'm just  
17   trying to -- trying to figure out -- find  
18   solutions here.

19          MR. RENNINGER: Okay.

20          MR. JAYARAMAN: So, in the morning there's --  
21   the trash goes in here, and there's plenty of  
22   room in here because it's empty in the morning.

1           MR. RENNINGER: It all depends on what the  
2 trash pickup comes.

3           MR. JAYARAMAN: So, let's confirm. Both the  
4 interior of this cooler as well as the exterior  
5 trash storage area gets emptied sometime between  
6 7:00 and 9:00.

7           MR. RENNINGER: Yeah.

8           MR. JAYARAMAN: Both of them?

9           MR. RENNINGER: Yes.

10          MR. JAYARAMAN: Okay. So, by 9:00 they're  
11 both -- everything's empty. Are you telling me  
12 that between that time and then the afternoon  
13 pickup this thing gets filled up?

14          MR. RENNINGER: Not completely.

15          MR. JAYARAMAN: Okay.

16          MR. RENNINGER: But in the evening time it  
17 does.

18          MR. JAYARAMAN: Right. So at that point,  
19 between 1:00, 2:00, 3:00 sometime during that  
20 time you've had your afternoon deliveries by that  
21 point?

22          MR. RENNINGER: Mm hmm.

1           MR. JAYARAMAN: Okay, you've got afternoon  
2 deliveries, you've got prep work all done, you've  
3 got your cardboard outside.

4           MR. RENNINGER: Oh, prep is never done.

5           MR. JAYARAMAN: Okay, prep's never done. My  
6 apologies.

7           MR. RENNINGER: It's okay.

8           MR. JAYARAMAN: So, after about -- between  
9 1:00 and 3:00, this interior one and the exterior  
10 one are all empty.

11          MR. RENNINGER: Mm hmm.

12          MR. JAYARAMAN: Then something happens. So,  
13 how at that point, from there, by the next  
14 morning, this gets completely filled up, the  
15 exterior one gets completely filled up, right?  
16 And then you have to go back to this and there's  
17 overflowing trash.

18          MR. RENNINGER: No, it's not really  
19 overflowing with trash. It's -- it's -- I mean,  
20 you close the lid on the dumpsters and then I  
21 have them put it back in the other -- in the  
22 other cooler so that it's not busting out at the

1     seams.

2           MR. JAYARAMAN:   I'm going to --

3           MR. RENNINGER:   That's the standard, you  
4     know, procedure.

5           MR. JAYARAMAN:   I'm going reference exhibit  
6     #2 of our submission and I will reference pages  
7     #1 all the way through to page #11.

8           CHAIRPERSON ANDERSON:   I don't --

9           MR. SILVERSTEIN:   Which one are you looking  
10    at, again, sir?   Protestant's exhibit, number --

11          MR. JAYARAMAN:   Number 6.

12          CHAIRPERSON ANDERSON:   Okay, all right.   So  
13    which one are you?   All right.   Okay, go ahead.

14          MR. JAYARAMAN:   So, these are within a week  
15    apart.   October 6, 2015 and October 11, 2015.

16          MR. KLINE:   Objection.

17          CHAIRPERSON ANDERSON:   Hold on -- hold on --

18          MR. RENNINGER:   I wasn't there.

19          CHAIRPERSON ANDERSON:   What's the nature of  
20    the objection?

21          MR. KLINE:   These haven't been authenticated.  
22    He's testifying they're a week apart.   We don't

1 have any testimony as to who took these photos,  
2 when they were taken. We have some notations on  
3 here but they haven't been identified by anybody.

4 CHAIRPERSON ANDERSON: Can you have them --

5 MR. ALBERTI: You can have him do that when  
6 he -- the witness comes forward. But, I mean, he  
7 can ask questions relative to the relationship.  
8 We know they're not authenticated, but they could  
9 be authenticated later, I mean, before they're  
10 entered into evidence.

11 MR. KLINE: Well, I don't --

12 MR. JAYARAMAN: I'll authenticate October 6,  
13 2015, I took it.

14 MR. ALBERTI: Then you 'd better get on the  
15 stand.

16 MR. JAYARAMAN: Well, there's --

17 CHAIRPERSON ANDERSON: All right. You can  
18 have --

19 MR. JAYARAMAN: I can authenticate them by  
20 the date and when they were taken.

21 CHAIRPERSON ANDERSON: All right.

22 MR. ALBERTI: This is hypocritical because he

1     used some of their exhibits earlier.

2           CHAIRPERSON ANDERSON: All you're doing is  
3     asking him --

4           MR. KLINE: They're all authenticated, Mr.  
5     Alberti.

6           CHAIRPERSON ANDERSON: All right. You're  
7     just asking questions, so just, so I'll overrule  
8     the objection. These are just pictures that -- I  
9     don't know what you're asking him, so let me see  
10    what is it you're asking and Mr. Kline, based on  
11    the questions, I'll listen to whatever objections  
12    that you're going to raise. So, I just -- these  
13    are some pictures that he's asking questions so  
14    I'm not sure why it is an objection at this  
15    juncture.

16          MR. KLINE: Well, the objection is we're  
17    being asked about pictures. They're not in  
18    evidence. They haven't been identified. And  
19    this witness isn't in a position to identify them  
20    to state that they are an accurate depiction of  
21    what was taken on such an such a date, and I  
22    don't understand where we're going with this.

1 MR. ALBERTI: But this witness can testify to  
2 what he sees in the pictures.

3 CHAIRPERSON ANDERSON: That's all I'm asking.  
4 At this juncture, just -- I'm going to overrule  
5 the objection. Let me hear what the questions  
6 are being asked and then we'll move from there.

7 MR. JAYARAMAN: Do you recognize this space?

8 MR. RENNINGER: Yes.

9 MR. ALBERTI: What are we looking at, please?

10 CHAIRPERSON ANDERSON: Which -- what number?

11 MR. ALBERTI: Which page?

12 MR. JAYARAMAN: It's page #9, bottom picture  
13 on page #9.

14 MR. ALBERTI: Thank you.

15 CHAIRPERSON ANDERSON: I'm sorry -- is it?  
16 Hold on, hold on. I'm now confused. So, the  
17 first -- you're showing him page --

18 MR. JAYARAMAN: It's the second picture on  
19 page #9.

20 CHAIRPERSON ANDERSON: Hold on.

21 MR. SILVERSTEIN: January 6, 2016?

22 MR. JAYARAMAN: Yes.

1 CHAIRPERSON ANDERSON: All right. You're  
2 showing him the picture on page #9. Okay, go  
3 ahead, what's the question?

4 MR. JAYARAMAN: Were you in your current  
5 position as director operations --

6 MR. RENNINGER: Yes.

7 MR. JAYARAMAN: -- for these establishments  
8 at that time on that date?

9 MR. RENNINGER: If it says January 16th,  
10 yeah.

11 MR. JAYARAMAN: Do you recognize this -- what  
12 the photograph -- is shown here in the  
13 photograph?

14 MR. RENNINGER: Do I recognize this?

15 MR. JAYARAMAN: Do you recognize the space?

16 MR. RENNINGER: Yes, absolutely.

17 MR. JAYARAMAN: Okay. What in this picture  
18 kind of indicates that it's a space you  
19 recognize?

20 MR. RENNINGER: Dumpsters.

21 MR. JAYARAMAN: Okay. Anything with the  
22 fence or the wall or anything like that?



1           MR. RENNINGER: Yeah, the fence and the wall,  
2   yeah.

3           MR. JAYARAMAN: Okay. So, what area does  
4   this resemble?

5           MR. RENNINGER: The trash storage area.

6           MR. JAYARAMAN: Exterior or interior?

7           MR. RENNINGER: Exterior.

8           MR. JAYARAMAN: Thank you. So, I'm not  
9   really sure what time it was taken, but is this -  
10  - do you recognize something like this happens?

11          MR. RENNINGER: Not anymore it doesn't. Not  
12  since we installed the walk-in cooler, now that  
13  instead of having the exposed bags, they can  
14  actually, you know, it kind of alleviates --  
15  having both areas alleviates the exposure of the  
16  bags.

17          MR. JAYARAMAN: So, you're saying that this  
18  picture is the result because there was no walk-  
19  in cooler.

20          MR. RENNINGER: No, not that -- there just  
21  wasn't enough -- probably had too much business  
22  that day.

1           MR. JAYARAMAN:   Okay.   Do you recognize this?  
2   We're at the top picture of page #8.

3           MR. RENNINGER:   Yes.   Yes.

4           MR. JAYARAMAN:   What is that blue container,  
5   sir?

6           MR. RENNINGER:   That is a grease storage  
7   receptacle.

8           MR. JAYARAMAN:   Okay.   What is that stuff  
9   that's in it?

10          MR. RENNINGER:   Fryer grease.

11          MR. JAYARAMAN:   Fryer grease.   Okay.

12          MR. RENNINGER:   Mm hmm.

13          MR. JAYARAMAN:   Is that normally how it  
14   should be stored?

15          MR. RENNINGER:   No, that's not.   That's not  
16   how it's -- you would normally store it.   The  
17   lids close and the area is cleaned around it.

18          MR. JAYARAMAN:   Okay.   Is that also true on  
19   this next pictures, which is the previous page,  
20   page #7?   Dated February 27, 2016?

21          MR. RENNINGER:   That's right.

22          MR. JAYARAMAN:   Okay.   So, but these are --

1 these are things that did happen, right?

2 MR. KLINE: Objection. There's no evidence  
3 that they happened, we've had no testimony --

4 MR. RENNINGER: We don't even know who opened  
5 the lids.

6 MR. KLINE: Excuse me.

7 MR. RENNINGER: Oh, I'm sorry.

8 MR. KLINE: As to when they were taken, who  
9 took them, whether somebody propped open the  
10 lids, we don't know anything. We have these  
11 pictures. They haven't been identified. So, to  
12 suggest that we have evidence that something  
13 happened when the pictures haven't been  
14 identified is not proper.

15 CHAIRPERSON ANDERSON: Mr. Kline, at least so  
16 far as your witness has stated that he recognizes  
17 these documents -- I don't know when they were  
18 taken but your witness has testified that he  
19 recognized the picture, so --

20 MR. KLINE: He recognizes the location. I  
21 haven't heard any testimony that he's aware that  
22 the lid was open on February 27 --

1 MR. JAYARAMAN: I haven't asked that --

2 MR. KLINE: -- 2016.

3 CHAIRPERSON ANDERSON: And I agree with that,  
4 sir. I agree with that. But, in the sense of --  
5 I know that he has now recogni -- he has stated  
6 that he recognizes the location, so what is it  
7 that -- what was the nature of the objection?  
8 I'm sorry. Maybe I'm lost. So, there was an  
9 objection regarding what issues? Because the lid  
10 was open?

11 MR. KLINE: It was stated in the question  
12 that this was a fact that the lid was open on  
13 these dates. We do not have that in evidence at  
14 this point.

15 CHAIRPERSON ANDERSON: You are correct.

16 MR. KLINE: Pictures that have notations on  
17 them and we don't have any way of knowing who  
18 took them, whether they're accurate, whether they  
19 went out there and propped them up, the lids  
20 open, we don't know anything at this point. All  
21 we know is that there's some pictures here and  
22 they have some dates on them and that they have

1    been identified as being the location behind the  
2    restaurant. That's all we know in evidence at  
3    this point.

4           CHAIRPERSON ANDERSON: Okay, that's fine.  
5    What's the question that you're asking, sir?

6           MR. JAYARAMAN: The question -- all I was  
7    asking about that was that, you know, they look  
8    like, you know, what was in it? I'm trying to  
9    identify the contents in it and whether they come  
10   from the establishment, that's all. He  
11   recognizes that it's --

12          CHAIRPERSON ANDERSON: Ask the questions and  
13   we'll -- ask the questions and then I'll --

14          MR. JAYARAMAN: You stated that this was  
15   residual grease that was put in there. Why do  
16   you have this container?

17          MR. RENNINGER: Grease goes in there from the  
18   restaurant.

19          MR. JAYARAMAN: Okay. From which restaurant  
20   does grease get placed in these containers?

21          MR. RENNINGER: It's supposed to be from all  
22   three restaurants going there.

1           MR. JAYARAMAN: So, We The Pizza puts grease  
2 in there, is that right?

3           MR. RENNINGER: Yes.

4           MR. JAYARAMAN: That was news to me but okay.  
5 And Bernaise does?

6           MR. RENNINGER: Right.

7           MR. JAYARAMAN: And Good Stuff Eatery?

8           MR. RENNINGER: That's right.

9           MR. JAYARAMAN: Okay. Do you recognize this  
10 -- now I'm on page #6, the second picture on page  
11 #6, actually the only picture on page #6. Do you  
12 recognize this picture? What's in this picture?

13          MR. RENNINGER: That's cardboard.

14          MR. JAYARAMAN: That's cardboard. Do you  
15 recognize the vehicle just past the cardboard?

16          MR. RENNINGER: It looks like a Jeep.

17          MR. JAYARAMAN: What's the license plate?

18          MR. RENNINGER: I can't see it. I still  
19 can't see it. It's 215.

20          MR. JAYARAMAN: Do you know who that might  
21 belong to?

22          MR. RENNINGER: Yeah. Spike.

1           MR. KLINE: Let's stipulate that the mayor  
2 gave Mr. Mendelsohn vanity plates, that'll help.

3           CHAIRPERSON ANDERSON: Okay, move on.

4           MR. JAYARAMAN: So, this cardboard and --  
5 what is the box that you see on the right side,  
6 sir?

7           MR. RENNINGER: It says We The Pizza.

8           MR. JAYARAMAN: Okay. Are these cardboard  
9 that's generated by your establishments?

10          MR. RENNINGER: We The Pizza, yeah.

11          MR. JAYARAMAN: Okay. Do you think a  
12 compactor is able to crush these into much  
13 smaller square footage which would be helpful in  
14 terms of preventing this?

15          MR. RENNINGER: I don't know.

16          MR. JAYARAMAN: Is this the most efficient  
17 way of disposing of cardboard?

18          MR. RENNINGER: I'm not sure. I guess it all  
19 depends on how much you generate.

20          MR. JAYARAMAN: Just look at this, this what  
21 you generate you testified.

22          MR. RENNINGER: A compactor? I mean it would

1 make it smaller.

2 MR. JAYARAMAN: Okay. Do you recognize this  
3 drain, sir?

4 CHAIRPERSON ANDERSON: What number is that,  
5 sir? You need to identify.

6 MR. JAYARAMAN: The bottom of page #5.

7 MR. RENNINGER: That is the French drain.

8 MR. JAYARAMAN: Okay. Where is the French  
9 drain located in terms of the exterior trash  
10 area?

11 MR. RENNINGER: It's by the gate.

12 MR. JAYARAMAN: Okay. Is it on public  
13 space?

14 MR. RENNINGER: I'm not quite sure which is  
15 public and which isn't. It's kind of tricky back  
16 there.

17 MR. JAYARAMAN: Is it beyond the gate that is  
18 there?

19 MR. RENNINGER: It's inside the gate where  
20 the dumpsters are.

21 MR. JAYARAMAN: Okay.

22 MR. RENNINGER: Yeah.



1 MR. JAYARAMAN: So, it's inside the gate --

2 MR. RENNINGER: Yeah.

3 MR. JAYARAMAN: -- where the dumpsters are.

4 MR. RENNINGER: Yeah.

5 MR. JAYARAMAN: And this is a French drain.

6 MR. RENNINGER: Yeah.

7 MR. JAYARAMAN: Can you identify the material  
8 or the substance there?

9 MR. RENNINGER: I'm not sure. It could be  
10 Styrofoam, it could be grease.

11 MR. JAYARAMAN: Okay. It's not on public  
12 property. Is it on your property - the property  
13 that's controlled by any of the three  
14 establishments?

15 MR. RENNINGER: We control the area. I mean,  
16 that's -- it not on the property of the  
17 establishments but it's the area that we control.

18 MR. JAYARAMAN: Okay. So, it's -- so why do  
19 you drain it?

20 MR. RENNINGER: Why do we drain it?

21 MR. JAYARAMAN: Mm hmm. It's not on your  
22 property.

1           MR. RENNINGER: Well, to -- I guess to -- I  
2 mean, my whole thing is if it's overflowing it's  
3 the area that we're -- that we're at, and it  
4 alleviates, you know, issues, you know, as far as  
5 overflow. We have stuff back there. They're  
6 going to look at us because those are our  
7 dumpsters --

8           MR. JAYARAMAN: Would you agree that the  
9 [inaudible 8:32:48] will drain into that?

10          MR. RENNINGER: Yeah.

11          MR. JAYARAMAN: Okay, so the material that  
12 you're washing off, including the grease and  
13 whatever else, debris, is being washed into that  
14 French drain.

15          MR. RENNINGER: I try not to put debris down  
16 there. I mean I'm sure, especially like when it  
17 rains and stuff leaves go down there, you know.  
18 It's a natural flow of how the water goes from  
19 the rest -- you know, all the buildings back  
20 there and stuff that flows.

21          MR. JAYARAMAN: But you testified that you  
22 had power washed twice a day.

1 MR. RENNINGER: Sometimes, if I see fit.

2 MR. JAYARAMAN: Okay.

3 MR. RENNINGER: Other days we use the hot  
4 water hose.

5 MR. JAYARAMAN: Okay. Either one that you  
6 use.

7 MR. RENNINGER: Mm hmm.

8 MR. JAYARAMAN: Does that water go into this  
9 French drain?

10 MR. RENNINGER: Sometimes. Not all of it,  
11 sometimes if flows down the alley.

12 MR. JAYARAMAN: Okay, sometimes. But if  
13 you're -- if this is at the -- from the exterior  
14 trash area towards the drain, if you're washing  
15 the trash area you said it would go down.

16 MR. RENNINGER: Yeah, it'll go down, it'll go  
17 down there, right.

18 MR. JAYARAMAN: Okay. So, with it, it goes  
19 down, any of the liquid waste, grease and the  
20 liquid that is coming from the containers that  
21 are out there, is that right?

22 MR. RENNINGER: Well, it doesn't come from

1 inside the containers, 'cause they're too heavy  
2 to flip, you understand that I'm saying?

3 MR. JAYARAMAN: They're coming out of the  
4 bags.

5 MR. RENNINGER: No. No, they're not coming  
6 out of the bags. It's just debris that -- or  
7 anything that spills, like it spills in there  
8 when the trash company comes to pick up, if there  
9 are some bags or whatever, you know.

10 MR. JAYARAMAN: So when you go back there do  
11 you pick up the litter that's on the ground?

12 MR. RENNINGER: They're supposed to sweep  
13 first.

14 MR. JAYARAMAN: So, okay, so they're required  
15 to sweep the litter that's on the ground.

16 MR. RENNINGER: Litter, you know, any type of  
17 feces that may be back there.

18 MR. JAYARAMAN: Yeah.

19 MR. RENNINGER: Any type of leaves that blow  
20 off the trees that go in there. They sweep it  
21 up, dispose of it and then the rinsing happens.

22 MR. JAYARAMAN: So, where's the container for

1 the fryer located compared to this?

2 MR. RENNINGER: It's right behind Bernaise.

3 MR. JAYARAMAN: It's right behind Bernaise,  
4 so would you say, would it be accurate to say  
5 it's within a few feet of this French drain? Is  
6 it under four feet?

7 MR. RENNINGER: Probably about five or six  
8 feet.

9 MR. JAYARAMAN: Five or six feet, okay.  
10 There's a natural slope towards that.

11 MR. RENNINGER: Possibly, yeah. I mean it,  
12 yeah I guess you could say -- I'm trying to look  
13 at it.

14 MR. JAYARAMAN: So, you testified -- you  
15 testified that you have your managers send  
16 pictures to you every night.

17 MR. RENNINGER: Yes, of the trash area.  
18 Yeah.

19 MR. JAYARAMAN: Of the exterior trash area?  
20 Right.

21 MR. RENNINGER: Mm hmm.

22 MR. JAYARAMAN: What time is that -- what

1 time does that happen?

2 MR. RENNINGER: Good Stuff Eatery is anywhere  
3 between like 10:15, 10:30. We The Pizza is about  
4 11:15, 11:30.

5 MR. JAYARAMAN: Okay. Are there any of those  
6 photographs presented here as evidence today, do  
7 you know?

8 MR. RENNINGER: No, no they're not.

9 MR. JAYARAMAN: Okay. Is there a reason? I  
10 mean -- the question being, if they're all  
11 spotless and clean and all the lids are closed, I  
12 would assume that they would be presented here.

13 MR. KLINE: Objection. He's arguing. Save  
14 it for closing.

15 CHAIRPERSON ANDERSON: Sustained.

16 MR. JAYARAMAN: So, how long have you been  
17 doing that? How long has that practice been  
18 instituted?

19 MR. RENNINGER: Well, we first started doing  
20 it -- I was just getting text photos probably --  
21 I can't remember when the exact -- probably soon  
22 after I started last year and then the shift

1 notes thing we evolved into that within the last  
2 few months.

3 MR. JAYARAMAN: Could you clarify? Evolved  
4 into what?

5 MR. RENNINGER: Into the shift notes. So,  
6 what it is, is one of our locations in Crystal  
7 City was sending them in and I said, 'oh, that's  
8 a great idea, we should implement it in these  
9 restaurants and we can have photos of the trash  
10 areas at night.'

11 MR. JAYARAMAN: So, they do that every night  
12 --

13 MR. RENNINGER: Every night.

14 MR. JAYARAMAN: -- and so it's part of a  
15 check-off list that --

16 MR. RENNINGER: That's one of the check-off  
17 lists that I require. That's -- that's -- that's  
18 a verbal command that I give them that they do.

19 MR. JAYARAMAN: So, it's not on this Good  
20 Stuff Eatery nightcap list of things that they  
21 need to do.

22 MR. RENNINGER: No, no, not at all. Because

1   that's more of a corporate, and this is one that  
2   I dictate on Capitol Hill.

3           MR. JAYARAMAN: But you just said that they  
4   do it in the Crystal City location.

5           MR. RENNINGER: No. I said that they do  
6   shift notes at Crystal City.

7           MR. JAYARAMAN: Okay.

8           MR. RENNINGER: I added the photos in our  
9   location.

10          MR. JAYARAMAN: Now, if I could point to  
11   these -- these general manager daily checklists.  
12   In the morning they come in and check the  
13   dumpster situation. As you know I've done my own  
14   checks --

15          MR. RENNINGER: Absolutely. Yeah.

16          MR. JAYARAMAN: -- I've been there. And I  
17   check it but then I leave. Wasn't there any --

18          MR. KLINE: Objection. Mr. Jayaraman is  
19   testifying.

20          CHAIRPERSON ANDERSON: Can you rephrase the  
21   question, please. Ask him the question.

22          MR. JAYARAMAN: The question is what actions



1 are required after the check of the dumpsters?

2 MR. RENNINGER: What actions are required?

3 MR. JAYARAMAN: Yeah.

4 MR. RENNINGER: If there's issues they need  
5 to handle them.

6 MR. JAYARAMAN: What does that mean? Can you  
7 take -- can you --

8 MR. RENNINGER: That means it's done. If  
9 there's an issue they handle it.

10 MR. JAYARAMAN: Can you explain the types of  
11 issues that might require their --

12 MR. RENNINGER: If there's something spilled,  
13 it needs to be cleaned up. If there's, let's say  
14 a spill from, let's say the trash company, it's  
15 cleaned up. If there's an issue from the evening  
16 before, which there shouldn't be, but if there is  
17 then they have to let me know and then I can deal  
18 with the -- whoever the manager was that had that  
19 issue the evening before, and then speak with  
20 them.

21 MR. JAYARAMAN: So, these were put in place  
22 by you, is that right?

1 MR. RENNINGER: Which ones?

2 MR. JAYARAMAN: The walk-in at the restaurant  
3 at the back.

4 MR. RENNINGER: No, that's -- no, that wasn't  
5 put in place by me, that's corporate. That was  
6 done -- that was done -- I have to ask Mr. Wayne  
7 when those procedures were put in place.

8 MR. JAYARAMAN: But you're responsible for  
9 verifying that these are carried out.

10 MR. RENNINGER: Exactly.

11 MR. JAYARAMAN: So, you're director of  
12 operations --

13 MR. RENNINGER: And so I take it a step  
14 further.

15 MR. JAYARAMAN: Okay.

16 MR. RENNINGER: Yeah.

17 MR. JAYARAMAN: What does that mean?

18 MR. RENNINGER: I take it a step further  
19 requiring photos.

20 MR. JAYARAMAN: Okay. Through the day.

21 MR. RENNINGER: No, in the evening time,  
22 yeah.

1           MR. JAYARAMAN: In the evening time  
2 only, okay. Do you recommend to your staff --  
3 they come in in the morning and they see that  
4 there's trash everywhere, do you recommend that  
5 they take pictures and send it to you?

6           MR. RENNINGER: Sometimes, yeah. And then  
7 that way I can forward it to the ANC. I think  
8 you were cc'd on at least one or two of them that  
9 I sent to KMG.

10          MR. JAYARAMAN: I saw the one.

11          MR. RENNINGER: Okay.

12          MR. JAYARAMAN: So, you said you'd bought the  
13 pump a couple of weeks ago --

14          MR. RENNINGER: Yes.

15          MR. JAYARAMAN: -- has that French drain ever  
16 flooded previously?

17          MR. RENNINGER: Not significantly, no. Not  
18 that I saw, it didn't.

19          MR. JAYARAMAN: And that gets pumped to a  
20 drain --

21          MR. RENNINGER: A mop sink drain.

22          MR. JAYARAMAN: -- a mop sink drain on the

1     inside of Bernaise.

2           MR. RENNINGER:   The back of the restaurant,  
3     yeah.

4           MR. JAYARAMAN:   Okay.   Does that cause any  
5     problems for you guys?

6           MR. RENNINGER:   None.

7           MR. JAYARAMAN:   Okay.   So, there was some  
8     insinuation on the part of counsel that, in his  
9     questioning, that potentially somebody else could  
10    be -- you're stating that this picture sent so  
11    ideally, you know, the whole trash area, the lids  
12    are closed, everything's perfect, but by morning  
13    time our pictures are showing something different  
14    and you're claiming that potentially somebody  
15    else -- the homeless or somebody else -- could be  
16    rummaging through trash and pulling them all up,  
17    all these giant? --

18          MR. RENNINGER:   No, I'm not saying it  
19    happens, it doesn't happen often.   What I'm  
20    saying is that sometimes that is what happens.  
21    I'm not saying it always happens.   I'm saying it  
22    sometimes happens.   I'm not pointing at anything

1 to like, this is a homeless person. It happens  
2 sometimes.

3 MR. JAYARAMAN: Is it true that there are  
4 cameras pointed in the trash storage area?

5 MR. RENNINGER: No, those are lights.

6 MR. JAYARAMAN: They're lights. There's no  
7 cameras there?

8 MR. RENNINGER: There may have been cameras  
9 before, but I don't have cameras. There's no  
10 cameras that I've ever pointed in that trash  
11 area.

12 MR. JAYARAMAN: Okay. Would that be helpful  
13 in terms of managing what you do because you're  
14 not there 24/7. Would that be helpful to you in  
15 terms of managing the cleanliness of that area  
16 and to be proactive?

17 MR. RENNINGER: No.

18 MR. JAYARAMAN: It would not be helpful?

19 MR. RENNINGER: I don't think I need cameras  
20 back there. Because --

21 MR. JAYARAMAN: With respect to what's going  
22 on

1           MR. RENNINGER:  -- because if I see a  
2 homeless person back there rummaging through the  
3 trash, what's it gonna?  I'm still gonna be  
4 sitting here talking about this in three years.

5           MR. JAYARAMAN:  But at the same time if you  
6 knew that it was an employee who was just  
7 stacking trash bags, would that be helpful  
8 information to you?

9           MR. RENNINGER:  No, because the managers  
10 should be supervising that, the disposal at the  
11 end of the night.

12          MR. JAYARAMAN:  Okay, so would that be  
13 helpful to the manager to see if --

14          MR. RENNINGER:  Not if he's managing -- not  
15 if he's managing, no.  I don't think I need  
16 cameras back there.  I mean, personally, I don't  
17 feel.  You're asking me, my opinion.  That's my  
18 opinion, is no.

19          MR. JAYARAMAN:  Do you have any cameras back  
20 there at all?

21          MR. RENNINGER:  Not back on -- not at that  
22 spot.  I had one in the back but it's not, not at

1 the trash area.

2 MR. JAYARAMAN: But there's a camera back  
3 there.

4 MR. RENNINGER: No.

5 MR. JAYARAMAN: That's not a camera?

6 MR. KLINE: Objection. Asked and answered.

7 CHAIRPERSON ANDERSON: Sustained.

8 MR. JAYARAMAN: I'm just trying to identify  
9 if there's one anywhere in the back area, that's  
10 all.

11 MR. SILVERSTEIN: Mr. Chairman?

12 CHAIRPERSON ANDERSON: Yes, Mr. Silverstein?

13 MR. SILVERSTEIN: We've had from both sides  
14 an inordinate amount of repetitive questioning,  
15 of asked and answered, we've gone on now for five  
16 and a half hours and we're nowhere near finished.  
17 It's time to pick up the pace, gentlemen.

18 MR. JAYARAMAN: Fair enough. With that, I'll  
19 finish my line of questioning, sir.

20 CHAIRPERSON ANDERSON: Are you sure you're  
21 finished, sir? I don't, and I'm saying this for  
22 a reason. With all due respect to Mr.

1 Silverstein, but I do not want to -- for the  
2 board to issue a decision and one party objects  
3 because they're saying that they did not have an  
4 opportunity to express -- present their case the  
5 way they wanted, so I know that it's a long --  
6 the board has been here since 9:00 this morning  
7 and the board will stay here until this case is  
8 over. So, I don't want anyone to feel that we're  
9 trying to rush you, but at the same time I want  
10 folks to be cognizant of the time but I want you  
11 to know, though, that we will be here until this  
12 is over, and until and unless both parties decide  
13 that they want to take a break or we're done for  
14 the day. Okay? I just wanted to say that.

15 MR. SILVERSTEIN: I thank the chairman and  
16 apologize if I seem a bit curt. It's simply when  
17 a question is asked and answered and asked and  
18 answered, it should never be asked a third time.

19 CHAIRPERSON ANDERSON: Fair enough. I think  
20 that point is taken, Mr. -- all right and I see  
21 the questions that were asked so I will say to my  
22 fellow board members that you take that same --



1   that -- that -- that instruction to heart as now  
2   it is the board's opportunity to ask questions,  
3   and remember, I'm reminding my board members that  
4   when you ask the questions those are more  
5   questions for both parties to ask. Go ahead, Mr.  
6   Short.

7           MR. SHORT: Good -- I guess good evening,  
8   now. Mr. Renninger, what rank did you leave the  
9   navy at?

10          MR. RENNINGER: Senior chief.

11          MR. SHORT: Senior chief. We salute you for  
12   your service, sir.

13          MR. RENNINGER: Thank you.

14          MR. SHORT: Thank you for your service.  
15   There are some issues that kind of give me the  
16   willies and I say that for this reason. I served  
17   for 33 years in this city in the D.C. Fire  
18   Department and in the fire marshal's office we  
19   had to inspect -- I don't think they do anymore -  
20   - but we had to inspect hood and duct systems in  
21   kitchens along with the health department, and I  
22   just have a problem. You say this French sewer

1 in the rear is not connected to anything,  
2 correct?

3 MR. RENNINGER: No, it's just a French drain.  
4 I mean unless someone else knows something  
5 different, it's just like -- it goes down, like,  
6 seven or eight feet or something, or six feet and  
7 then there's just this big, heavy, giant, metal  
8 plate that goes over it that has holes in it.

9 MR. SHORT: Okay, let me say this to you.  
10 The bottom line is that the city did repave the  
11 alley, correct?

12 MR. RENNINGER: Yeah.

13 MR. SHORT: It doesn't belong to the city  
14 because if it belonged to the city they would  
15 have had to take care of that sewer.

16 MR. RENNINGER: I think it was discussed but  
17 I'm not quite sure what the outcome was.

18 MR. SHORT: I'm just going to tell you what I  
19 know the law states.

20 MR. RENNINGER: Okay.

21 MR. SHORT: The law states that they would  
22 have to do that sewer, that would have been a

1 must. Again, just talking about the health  
2 department, when you pump raw sewage, 'cause  
3 that's what that becomes, into -- from outside to  
4 inside of a restaurant I think -- please check  
5 what the health department rules -- I think  
6 that's going to be an issue and I hope you can  
7 take care of it before the health department  
8 comes. They will shut you down that same day.  
9 Okay, no, I just made a statement. Also, I do  
10 know, because the fire department, which I used  
11 to work for, used to run dumpsters all the time,  
12 we had a major problem back in the 70s with  
13 people just throwing cardboard boxes inside of  
14 dumpsters and then they would set them on fire  
15 because they would get -- so, then they came with  
16 the cardboard law for commercial -- are you  
17 familiar with that? Where you have to -- you  
18 have to crush them down, you have to tie them up,  
19 before the trash people come pick them up.  
20 Please check on that, because I think that you  
21 have to do that with cardboard boxes, in fact I'm  
22 sure of that. So, there are a lot of issues that

1 you could help yourself and really I think your  
2 mind is right and I think your navy training is  
3 going to help this issue a lot more. But I think  
4 you need to get a copy of the health department  
5 laws. You got grease going down that sewer and  
6 then you're pumping that back into the -- pumping  
7 that back into -- trust me I'm not doing anything  
8 other than trying to maybe help you, help the  
9 situation. There's some issues that -- that your  
10 testimony has just given me some cause, okay?  
11 And then, I think from a military -- very brief,  
12 when you mentioned vector in the military, I do  
13 know that one time we had a situation where they  
14 said there was one rat for every citizen in the  
15 city. Going back, that was on the front page of  
16 the Washington Post. And that's when the vector  
17 stepped in, the district government was set up.  
18 That term, I mean I do it as a true fact that  
19 it's called vector when you talk about vermin and  
20 unwanted guests. So, anyway, I think you're on  
21 the right track. It sounds like you have a lot  
22 of things going for you. I would really think

1   that's -- what is the problem about getting a  
2   compactor? What is the problem?

3           MR. RENNINGER: Well, I can't answer  
4   specifically, because it was before my time, but  
5   from what I understand was that we had it in  
6   place -- they had the plans to do it and then  
7   the, correct me if I'm wrong, the ANC advised  
8   against it after, because it was too noisy. So,  
9   that was the word I got, so I was given --

10          MR. SHORT: Did you hear the testimony  
11   earlier today that someone said there's one at  
12   8th and Pennsylvania Avenue? A trash compactor  
13   that several businesses use.

14          MR. RENNINGER: I mean, I heard it, but, I  
15   mean --

16          MR. SHORT: They don't have any problem with  
17   noise with that. In fact it's helped the whole  
18   community over there to settle down.

19          MR. RENNINGER: I know -- Yes, sir.

20          MR. SHORT: In some -- I'm saying that  
21   because if it worked for one part of Capitol Hill  
22   it might work for another. You might want to

1 really consider that. I think that a lot of your  
2 problems would go away. And I know these alleys  
3 are very small because also when I worked for the  
4 fire department, I worked at Engine Company 18,  
5 which is on 8th Street, truck 7, and we had heck  
6 trying to get those big trucks in there. But if  
7 there's a fire back there, we've got to get those  
8 trucks in there, if we've got to tear the mirrors  
9 off, so I understand the problem. But, dragging  
10 those cans down to a pickup -- what do you do  
11 when there's ten inches of snow on the ground?

12 MR. RENNINGER: Well, I mean, we all grab a  
13 shovel. But I understand, sir.

14 MR. SHORT: I would think coming into the  
15 21st century a trash compactor might help out the  
16 business. Thank you, that's all I have, Mr.  
17 Chair. Thank you very much.

18 CHAIRPERSON ANDERSON: Mr. Silverstein?

19 MR. SILVERSTEIN: Thank you very much, Mr.  
20 Renninger, and thank you for your service. It  
21 seems like the problem here is -- is a problem we  
22 have in so much of the city where there is too

1 much demand and not enough space. In your case,  
2 too much demand for a restaurant, for food, too  
3 much demand for residential, and not enough space  
4 to put everyone's trash to do what needs to be  
5 done. Is that pretty much how you --

6 MR. RENNINGER: I have the space, you know, I  
7 have the space to do it, you know, it's just a  
8 lot of the issues were, you know, I can only  
9 attest to when I was here and we improved this  
10 alley. And I feel that we significantly made  
11 improvements and I think that we even instilled  
12 reasonable measures, you know, to store our  
13 trash.

14 MR. SILVERSTEIN: Even if you got rid of all  
15 your food, all of your rats, you'll still have a  
16 rat problem in the neighborhood. Isn't that your  
17 testimony?

18 MR. RENNINGER: There would still be rats.

19 MR. SILVERSTEIN: There are rats there anyway  
20 and you're talking about that the drycleaners and  
21 maybe Pret A Manger and some of these other  
22 places. So, even if you're able to get

1 everything done you won't end up -- you'll still  
2 end up having rats visit you and the point I'm  
3 trying to make and this is to all of you, that  
4 the executive office of the mayor is probably  
5 where you all should be going when we're finished  
6 here because they will work with the department  
7 of health, they will work with other agencies to  
8 involve themselves in rat abatement beyond the  
9 licensed establishment. So, even if they are  
10 able to get rid of everything, that's not going  
11 to end your problem. The problem is an  
12 interagency problem involving a number of places.  
13 But there are still things perhaps that you can  
14 do to mitigate the problems, Mr. Renninger. Ms.  
15 Hong mentioned the problem of grease coming out  
16 simply because it's a kitchen, things are fried,  
17 there's this coating of it. Are you putting  
18 credence to that? You heard her testimony,  
19 correct?

20 MR. RENNINGER: There's a -- say that again -  
21 - there's a film?

22 MR. SILVERSTEIN: She said there was a



1 coating of grease that would cover her fence and  
2 would cover other things including cars.

3 MR. RENNINGER: No -- I --

4 MR. SILVERSTEIN: And that there should be  
5 some sort of way to store the grease in the  
6 interior and be -- some sort of fan on the --

7 MR. RENNINGER: No, there's -- we have  
8 captive air filters and upblast fans, and the  
9 captive air filters that are in the ventilation  
10 system reduce 97% of the -- of the grease that  
11 collects -- 97% of the grease that the grills  
12 produce, the scheme ventilation system there's an  
13 upblast fan that pulls it up and then it stores  
14 the grease. Do you understand what I'm saying?

15 MR. SILVERSTEIN: Yeah.

16 MR. RENNINGER: So like, it's --

17 MR. SILVERSTEIN: The thing above the hood --

18 MR. RENNINGER: Right, so --

19 MR. SILVERSTEIN: -- sucks it out of there.

20 MR. RENNINGER: And then, you know, the  
21 filters are cleaned nightly by our -- we have, we  
22 pay for a maintenance crew to come in and take

1 the -- take all the filters out and clean all the  
2 filters and reinstall them.

3 MR. SILVERSTEIN: So, you're taking regular  
4 steps there you say.

5 MR. RENNINGER: That's all there, yeah, yes  
6 sir.

7 MR. SILVERSTEIN: Okay. Anything else that -  
8 - have you heard from her testimony where you  
9 feel that maybe there might be something that  
10 could be done to mitigate that hasn't been done  
11 so far?

12 MR. RENNINGER: No, I mean, I like the -- I  
13 mean, I feel we've done everything we can do with  
14 what we have. With what we have, the space we  
15 have to work with, and it's, you know, it's a  
16 progression thing. I think that we've progressed  
17 significantly. I think that we really, you know,  
18 reasonable measures I guess you could say is, you  
19 know, to store it. It's not

20 MR. SILVERSTEIN: You think you could do rear  
21 cameras so that a) you can watch your people, and  
22 b) if something bad happens, if other people are

1 doing, you know, dumping trash, which I've seen  
2 in some restaurants or some places where people  
3 dump things into other folks' trash, that you  
4 would at least have that evidence.

5 MR. RENNINGER: I mean, I personally don't  
6 feel I need it, but I mean, maybe, you said, for  
7 bad things, you know that could happen, but, you  
8 know.

9 MR. SILVERSTEIN: Covering your rear end is  
10 never a bad idea.

11 MR. RENNINGER: But for trash, I mean, sir.  
12 I mean that's just my personal opinion. Yes,  
13 sir.

14 MR. SILVERSTEIN: Thank you for your service.

15 MR. RENNINGER: Thank you.

16 MR. SILVERSTEIN: Let's move on.

17 CHAIRPERSON ANDERSON: Mr. Alberti?

18 MR. ALBERTI: Good evening. I want to focus  
19 right now on your capacity for storing trash, all  
20 right? So, let's go to page #7 of the  
21 protestants' exhibit, and I'm not looking at the  
22 condition of the trash, I'm looking at the area,

1 all right? So nobody gets nervous. Is this an  
2 accurate depiction? You see which one I'm  
3 talking about? Labeled February '16, page #7 of  
4 the protestants', the one Mr. Jayaraman showed  
5 you, the top one we're talking about?

6 MR. RENNINGER: That one there?

7 MR. ALBERTI: The top of page. Is that sort  
8 of an accurate depiction of the trash area? The  
9 outdoor trash area.

10 MR. RENNINGER: Like, the size of it?

11 MR. ALBERTI: Yeah.

12 MR. RENNINGER: Yeah, I mean, it holds five  
13 dumpsters.

14 MR. ALBERTI: It holds five dumpsters, okay.

15 MR. RENNINGER: Yes.

16 MR. ALBERTI: And then, let's go to the  
17 previous one page #6 which is March 7th there are  
18 two dumpsters there?

19 MR. RENNINGER: Those -- okay, so those  
20 aren't there anymore. There's only one dumpster  
21 there and that belongs to the drycleaner. It's  
22 the drycleaner's dumpster.

1           MR. ALBERTI:    These were outside of that  
2    area?

3           MR. RENNINGER:  We don't use -- we don't use  
4    that area anymore.

5           MR. ALBERTI:  These were outside of that  
6    area?

7           MR. RENNINGER:  Yes, before.  Yeah, until we  
8    put that -- until we put that cooler in -- one of  
9    the main things was to be able to get -- what  
10   they wanted was for us to be able to get all our  
11   trash like consolidated in an area, so we got the  
12   three dumpsters for trash and then we have two  
13   recycling ones in that area.  So, three trash,  
14   two cardboard recycling and then the cooler  
15   that's up by Good Stuff Eatery.

16          MR. ALBERTI:  Okay.

17          MR. RENNINGER:  So that way there's no, like,  
18   you know, the alley looks nice and -- but, you  
19   know, now the drycleaner has a dumpster out there  
20   but I can't regulate what they do.

21          MR. ALBERTI:  Okay.  So, given your current  
22   operations and your current methodology for

1 handling trash --

2 MR. RENNINGER: Yeah --

3 MR. ALBERTI: Do you have room to store more  
4 trash? I mean, I think you indicated in your  
5 testimony that sometimes you're at your max. Do  
6 you have any space or methods to expand the area  
7 of the number of containers that you have for  
8 storing trash?

9 MR. RENNINGER: We can't. I don't think -- I  
10 mean we have the -- we can't fit more than five  
11 in there in that dumpster area, I mean, 'cause  
12 the French drain's in the way also and, you know,  
13 the door has to close in that area and then the  
14 cooler, there's no more space on the other -- I  
15 mean you can't -- you can't stretch the cooler  
16 any wider because you have another -- you have  
17 another walk-in and then you have a building  
18 right next to it so we've maximized, like, the  
19 amount of space that you can actually fit a  
20 storage spot, you know what I mean, for trash.  
21 It is holding it all now.

22 MR. ALBERTI: Okay. But is it true to say

1   that it's not uncommon for it to be -- reach its  
2   max.

3           MR. RENNINGER:  It's uncommon now.  I mean,  
4   to be honest with you, it's uncommon for it to  
5   happen now.

6           MR. ALBERTI:  You testified earlier that,  
7   like, on weekends you said --

8           MR. RENNINGER:  On a Sunday possibly if we're  
9   bonkers busy, but the thing is, is that like I  
10   said, you won't have -- we're not supposed to --  
11   with what we have in place right now there  
12   shouldn't be any exposed trash anymore.  Like,  
13   the dumpsters, once they're closed, we can stack  
14   I the walk-ins so the main point is so that  
15   there's nothing -- no bags exposed to the  
16   outside, that's the whole goal, that's my vision.  
17   Does it happen all the time?  No, but we're doing  
18   the darned best we can do.

19          MR. ALBERTI:  That's a great goal.  That's a  
20   great goal.  Are you -- I think everyone would  
21   love that.  All right.  One last question.  I'm  
22   just intrigued.  So, when you have bags, because,

1   you know, you testified it happens. When you  
2   have bags that aren't fitting in these  
3   containers, how do they get transferred? How  
4   does the company transfer those?

5           MR. RENNINGER: Okay, so what they do is they  
6   run the totes down, they empty them out, they  
7   bring the totes back, they take those ones that  
8   are in that cooler, say that are stacked. A lot  
9   of times you'll have the totes that are just  
10   stacked a little high and then they'll come and  
11   they'll grab the bags that are off the top and  
12   they'll put them down in the empty bin that they  
13   just emptied out and they run them down, because  
14   one person can take two totes at a time, that's  
15   it. And normally there's two and three guys.  
16   They're running in, and they're running out, and  
17   they're filling and they're gone. Time is money  
18   and money is time. They're trying to get them in  
19   and get them out.

20           MR. ALBERTI: One person can handle two of  
21   those?

22           MR. RENNINGER: Huh?



1 MR. ALBERTI: One person can handle --

2 MR. RENNINGER: Oh, yeah, you just kind of --  
3 the totes, the totes.

4 MR. ALBERTI: All right, all right.

5 MR. RENNINGER: Yes, sir. Trust me, I've  
6 researched, I have watched it, I'm there.

7 MR. ALBERTI: I'm just -- sorry for that, I  
8 digress. I have no further questions.

9 CHAIRPERSON ANDERSON: Ms. Miller?

10 MS. MILLER: I just have a few.

11 MR. RENNINGER: Yes, ma'am.

12 MS. MILLER: Good evening. I wanted to  
13 follow up on the bags question.

14 MR. RENNINGER: Yeah.

15 MS. MILLER: Okay. So you said that no bags  
16 are exposed to the outside now, right?

17 MR. RENNINGER: Right.

18 MS. MILLER: And that's your goal? Okay, so  
19 we have an exhibit, I guess I don't know if it's  
20 been admitted yet but you've been looking at  
21 pictures of garbage bags on these dumpsters?

22 MR. RENNINGER: Yeah.

1 MS. MILLER: Okay. Can you address either,  
2 you know, what's changed since then or whether  
3 these pictures were not indicative of the  
4 situation.

5 MR. RENNINGER: It all depends on which one.

6 MS. MILLER: Okay, if you look at page #11,  
7 or #13 of ANC, it should be exhibit #2. It's  
8 dated at the top, October 11, 2015.

9 MR. RENNINGER: Yeah, I wasn't, actually that  
10 was probably, like, a couple of days before I  
11 came on so I can't really --

12 MS. MILLER: Oh, okay.

13 MR. RENNINGER: To be honest with you,  
14 there's only three -- it looks like there's only  
15 three dumpsters in that area and outside would  
16 have been -- outside of the alley would have been  
17 two recycling dumpsters. Now we have the three  
18 dumpsters on the right side which hold trash and  
19 then on the left side is two cardboard  
20 containers, plus we have the cooler and two-a-day  
21 pickups.

22 MS. MILLER: Okay.

1           MR. RENNINGER: So that's the difference  
2 between what you see last year and what you see  
3 this year.

4           MS. MILLER: Okay, so It's your testimony  
5 that this situation doesn't exist anymore?

6           MR. RENNINGER: That situation -- that  
7 situation -- that setup does not exist anymore.

8           MS. MILLER: Okay. The previous witness I  
9 believe suggested that a solution to trash  
10 problems would be interior storage. Have you  
11 heard that suggestion posed to you at all?

12          MR. RENNINGER: We have one interior storage  
13 but it all depends on what the end goal is. If  
14 it's to store trash and we store it reasonably,  
15 that's what we're doing right now. But as far as  
16 anything else, you know, that's not a decision  
17 that I make. I work with what I have and if I  
18 can actually store trash reasonably, which I'm  
19 doing now, then that's that what I'm doing.

20          MS. MILLER: Okay. What does that mean,  
21 though? Where would that be? Does that mean  
22 they'd have to do an addition somewhere in the

1 space that exists?

2 MR. RENNINGER: That would be if there's even  
3 any room, and on whose property would it be on  
4 and who would allow for it.

5 MS. MILLER: Okay.

6 MR. RENNINGER: That's the only thing I could  
7 state because, I mean, you all know D.C. and you  
8 know, you've got enough room to wiggle, you know,  
9 down at -- so -- we maximized the space.

10 MS. MILLER: Okay. And are you familiar with  
11 trash compactors?

12 MR. RENNINGER: Yeah, I am and I think we --  
13 I know we discussed that earlier, that that was  
14 advised by the ANC some years back and then, from  
15 what I understand, my company agreed to do it and  
16 then they withdrew it and didn't want us to do  
17 it.

18 MS. MILLER: I heard you say that they  
19 thought it was noisy.

20 MR. RENNINGER: I think that's what was the -  
21 - I think that's what was stated in the  
22 testimony, that they said it would be too loud,

1   so we withdrew it. Now, I'm not saying that's  
2   what happened, I'm saying that's what I think I  
3   heard during the testimony.

4

5       MS. MILLER: That was several years ago.

6       MR. RENNINGER: Right.

7       MS. MILLER: Right. Are you familiar with  
8   trash compactors now, whether or not they're  
9   noisy in your opinion or not?

10       MR. RENNINGER: I mean, I used them at my  
11   last job, and they make some noise. It all  
12   depends on if you want to hear, you know, the  
13   loud beep sound or if you want to hear the tops  
14   of metal dumpsters banging. You know, it's kind  
15   of like the lesser of two evils I guess you could  
16   say.

17       MS. MILLER: Okay. Let's see if I have  
18   anything else. Oh, yeah, I think Mr. Silverstein  
19   was talking about coordination with the D.C.  
20   government. And my question goes to coordination  
21   with your neighbors for the manager and the  
22   drycleaner. Have you all communicated at all

1 about the rodent problem or any other trash  
2 problem?

3 MR. RENNINGER: As far as trash problems, I  
4 mean Pret is on the other side of the fence. I  
5 mean, I see their mess, you know, but there's not  
6 as much heat that's put on places like the  
7 drycleaners and it's not put on Pret. Pret has  
8 no liquor license. They -- they're not going to  
9 be sitting here trying to get a liquor license  
10 and discussing trash. They can pretty much tell  
11 everybody to pound sand because they don't sell  
12 liquor so it doesn't matter. Now, if the health  
13 department comes there they'll fix it. But they  
14 won't go through stuff like this like we are over  
15 alcohol. As far as the drycleaner, I mean we --  
16 as far as that goes I can't tell the landlord,  
17 you know, fix the structural integrity of his  
18 building because I'm not a structural engineer,  
19 but I know what I see. I know what's common  
20 sense. But, you know, that's something that  
21 maybe the city needs to tackle. This whole thing  
22 -- I almost forgot that I was actually applying

1 for reinstatement of an alcohol license. I mean,  
2 I'm not trying to be funny. I mean, I really  
3 forgot up until, like, a couple of minutes ago  
4 when you asked about Pret and the drycleaners  
5 because, I mean, this is for an alcohol license  
6 and I've got, you know, we've got all these other  
7 establishments that don't sell alcohol and their  
8 places are just repugnant, you know? I feel like  
9 we're doing everything we can, you know. I don't  
10 know what they did three years ago, I don't know  
11 what we did five years ago. I know what I'm  
12 doing now and I have a point of contact, I'm the  
13 guy, you've got an issue call me, e-mail me. I  
14 will resolve it as quickly as I can.

15 MS. MILLER: Okay, I have one more, just a  
16 follow-up question --

17 MR. RENNINGER: I'm sorry.

18 MS. MILLER: -- just one more. Did you say  
19 that both of them, their places are repugnant?

20 MR. RENNINGER: I'm saying the trash areas in  
21 other restaurant establishments that maybe don't  
22 have to deal with liquor. You understand what

1 I'm saying?

2 MS. MILLER: That's what I want to clarify.  
3 You're just saying in general that other places  
4 might be repugnant but don't have an alcohol  
5 license.

6 MR. RENNINGER: Right, but they're not going  
7 to sit here and have a meeting for like six,  
8 seven hours.

9 MS. MILLER: But you didn't mean specifically  
10 your neighbors.

11 MR. RENNINGER: No. I was told in an e-mail  
12 that, you know, they were going to focus on like  
13 Starbuck's and Hawk and Dove and stuff. I don't  
14 know what their places look like because I really  
15 haven't gone and looked at their trash areas. I  
16 just don't really have the time, but I know  
17 they're not looking for a liquor license so  
18 they're probably not having as hard a time as us.

19 MS. MILLER: Okay, thank you.

20 CHAIRPERSON ANDERSON: All right. Mr.  
21 Jayaraman? Any questions based on the questions  
22 the board asked?



1           MR. JAYARAMAN: Yeah. You talked about that  
2 we're here for a liquor license, and you're  
3 right, we are. The question is what does -- what  
4 does We The Pizza and Good Stuff Eatery, what you  
5 said is fast casual, right? Fast casual?

6           MR. RENNINGER: Yeah, fast casual.

7           MR. JAYARAMAN: It's a dining -- it's an  
8 experience. And that includes both food and  
9 drinks, right?

10          MR. RENNINGER: Right.

11          MR. JAYARAMAN: Make sense? Pizza and beer,  
12 burgers and beer. And so, would you agree that,  
13 you know, as an experience, a dining experience  
14 both food and alcohol are interrelated?

15          MR. RENNINGER: Right.

16          MR. JAYARAMAN: For a dining experience?

17          MR. RENNINGER: Right.

18          MR. JAYARAMAN: Okay. That's where these are  
19 connected. That's all I have.

20          CHAIRPERSON ANDERSON: Mr. Kline?

21          MR. KLINE: Mr. Renninger, you were at -- you  
22 testified earlier that you were at an ANC meeting

1 and you gave out your contact information?

2 MR. RENNINGER: Yeah, that was -- that was,  
3 yeah, the first one I went to.

4 MR. KLINE: Which would have been an ANC  
5 committee -- alcohol committee meeting in March  
6 2014?

7 MR. RENNINGER: I went there with Micheline.  
8 It was at, I forget where it was, I think it was  
9 an old naval building or something, yeah.

10 MR. KLINE: In March, do you think?

11 MR. RENNINGER: Yeah, probably, yeah, it was  
12 around that time.

13 MR. KLINE: All right, so if the ANC website  
14 said that they met, the ANC and ABRA committee  
15 met March 8th that month, do you think that's  
16 when it probably would have been? And that's  
17 when you gave out your name and number.

18 MR. RENNINGER: Yeah.

19 MR. KLINE: All right, on March 24th --

20 MR. RENNINGER: Yeah.

21 MR. KLINE: Did you hear from anybody with  
22 respect to this accumulation of debris, whatever

1 it is, in the alley around the French drain?

2 MR. RENNINGER: No.

3 MR. KLINE: Did you hear --

4 MR. ALBERTI: We have it in evidence that  
5 there was on March 24th.

6 MR. KLINE: We have the picture that  
7 everybody keeps talking about.

8 MR. ALBERTI: Mr. Kline, you argued that the  
9 date wasn't authenticated and now that you're --  
10 now you're stipulating to it?

11 MR. KLINE: I'm not stipulating to anything,  
12 Mr. Alberti, I simply asked him if he heard from  
13 anyone on or around March 24th with respect to  
14 the accumulation of debris in the alley.

15 MR. ALBERTI: You went to the picture.

16 MR. KLINE: I'm not stipulating anything.

17 MR. ALBERTI: Okay.

18 MR. KLINE: And I think you testified earlier  
19 that, in fact, since the mediation you haven't  
20 heard from anybody with one exception which was  
21 to compliment you on the job that was being done  
22 in around May. Is that correct?

1           MR. RENNINGER: Somewhere around that time  
2 frame, yeah.

3           MR. KLINE: You haven't heard any complaints  
4 from anyone else have you?

5           MR. RENNINGER: No. I haven't heard  
6 anything. But, I mean, I'm not saying it's --  
7 I'm just saying I haven't heard anything from  
8 anyone.

9           MR. KLINE: Okay. Thank you. That's all the  
10 questions I have.

11          CHAIRPERSON ANDERSON: Mr. Kline, do you have  
12 other witnesses?

13          MR. KLINE: I have no more witnesses. I  
14 would move our exhibits.

15          CHAIRPERSON ANDERSON: I need you to -- we  
16 need to go through the documents to make sure  
17 that I'm identifying them correctly. Let's start  
18 off with number -- oh, I'm sorry sir. You just -  
19 - you look so great in that seat over there, so  
20 you can sit there all day.

21          MR. RENNINGER: I'm getting used to it.

22          CHAIRPERSON ANDERSON: You've been there all

1 day. I completely forgot you were still there.  
2 You're free to go.

3 MR. RENNINGER: Okay.

4 CHAIRPERSON ANDERSON: Thank you.

5 MR. KLINE: All right, applicants' #4 was  
6 investigator's #15.

7 CHAIRPERSON ANDERSON: No, let's start at  
8 #1. I want to make sure that I have all your  
9 documents.

10 MR. KLINE: Number one is the exhibit #26.

11 CHAIRPERSON ANDERSON: Hold on. It's the #26  
12 of the investigator, right?

13 MR. KLINE: Right, it was the diagram. Okay,  
14 that's number 1. All right, let me ask the  
15 question, Mr. -- you want to admit #1. Mr.  
16 Jayaraman, do you have a problem with #1 being  
17 moved into evidence? And #1 is this document.

18 MR. JAYARAMAN: I have no issues, sir.

19 CHAIRPERSON ANDERSON: All right.

20 MR. KLINE: I think that came out, I think  
21 #1, #2, #3 and #9 already came in.

22 CHAIRPERSON ANDERSON: But I just want to

1 make sure that when we do our deliberations that  
2 I have the document that we should rely on. What  
3 is #2?

4 MR. KLINE: I'm not sure I know what this one  
5 is. Two and #3 -- #2 was an e-mail, the  
6 applicant, was the protestant's exhibit.

7 CHAIRPERSON ANDERSON: All right, and that  
8 was moved into evidence. So, #2 is part of the  
9 evidence, I do have that one.

10 MR. KLINE: Right. Number three was another  
11 e-mail from the protestants.

12 CHAIRPERSON ANDERSON: And that was also  
13 moved into evidence. I do have #3. And note  
14 that Mr. Jayaraman had some issues regarding it  
15 but we had already -- so #3 was already -- which  
16 was a letter. Number three is an e-mail which is  
17 a letter from Ms. Hong to Ms. Mendelsohn. That  
18 was moved into the record. What's #4?

19 MR. KLINE: Number four was the  
20 investigator's exhibit #15.

21 MR. ALBERTI: I've got it right here.

22 CHAIRPERSON ANDERSON: Thank you. And, Mr.

1 Jayaraman, do you have an issue with #4 being  
2 part of the record?

3 MR. JAYARAMAN: No objection.

4 CHAIRPERSON ANDERSON: All right, #4 is  
5 moved. Number five?

6 MR. KLINE: Number five is investigator's  
7 exhibit #17.

8 CHAIRPERSON ANDERSON: And I have #5. Mr.  
9 Jayaraman, do you have a problem with #5?

10 MR. JAYARAMAN: No.

11 CHAIRPERSON ANDERSON: Number five is a part  
12 of the record.

13 MR. KLINE: Number six was investigator  
14 exhibit #18.

15 CHAIRPERSON ANDERSON: That's #6.

16 MR. KLINE: Number seven.

17 CHAIRPERSON ANDERSON: Hold on one minute.

18 MR. KLINE: I'm sorry.

19 CHAIRPERSON ANDERSON: Mr. Jayaraman, do you  
20 have a problem with #6 being a part of the  
21 record?

22 MR. JAYARAMAN: No objections.

1 CHAIRPERSON ANDERSON: That's a part of the  
2 record.

3 MR. KLINE: Number seven is investigator  
4 exhibit #19.

5 CHAIRPERSON ANDERSON: : Mr. Jayaraman, do  
6 you have an issue with #7 which is investigator  
7 #19.

8 MR. JAYARAMAN: No objection.

9 CHAIRPERSON ANDERSON: So, #7 is a part of  
10 the record.

11 MR. KLINE: Number eight, applicant's #8 was  
12 investigator exhibit #20.

13 CHAIRPERSON ANDERSON: Mr. Jayaraman, do you  
14 have an issue with #20 being a part -- I'm sorry,  
15 #8.

16 MR. JAYARAMAN: No.

17 CHAIRPERSON ANDERSON: So moved.

18 MR. KLINE: Number 9 was applicant's  
19 originally number #9.

20 CHAIRPERSON ANDERSON: Hold on. Applicant's  
21 -- which was -- your #9?

22 MR. KLINE: No, it was our #9.



1 CHAIRPERSON ANDERSON: Okay.

2 MR. ALBERTI: What is that, Mr. Kline? Is it  
3 a picture? Is this the picture of --

4 MR. KLINE: It was the letters from the  
5 applicant's attorney.

6 CHAIRPERSON ANDERSON: The letter dated  
7 September 5th, 2014?

8 MR. KLINE: Correct.

9 CHAIRPERSON ANDERSON: Mr. Jayaraman, do you  
10 have an issue with #9?

11 MR. JAYARAMAN: I do have an objection. I  
12 believe that this whole set of exhibits was  
13 submitted after the board-ordered due date of  
14 Friday, October -- I'm sorry, September 30th.  
15 They were actually submitted on Saturday, October  
16 the 1st at 3:23 p.m.

17 MR. KLINE: And the board's official notice  
18 requires the filing of a PIP by a certain date.  
19 It doesn't require the filing of exhibits by a  
20 certain date. They were served, they've been  
21 seen, there's no prejudice. We didn't get the  
22 investigator's exhibits until yesterday and I

1 haven't even seen the first nine.

2 CHAIRPERSON ANDERSON: I'm sorry?

3 MS. MILLER: I'm sorry, you haven't seen  
4 what?

5 MR. KLINE: The investigator's exhibits, the  
6 first nine of the investigator's report. I still  
7 haven't seen those. So, I don't know why.

8 CHAIRPERSON ANDERSON: I hear your objection,  
9 #9, we have had testimony on the document so I'm  
10 admitting it. This is exhibit #9 which is the  
11 letter from the Arlington group dated September  
12 5th, 2014. Number ten?

13 MR. KLINE: Number ten was investigator's  
14 exhibit #21.

15 CHAIRPERSON ANDERSON: Okay. Hold on one  
16 minute. Number eleven?

17 MR. KLINE: Number eleven.

18 MR. JAYARAMAN: Sir.

19 CHAIRPERSON ANDERSON: I'm sorry. Mr.  
20 Jayaraman do you have an issue with number --  
21 this exhibit being a part of the record?

22 MR. JAYARAMAN: No objections.

1           MR. KLINE: Numbers #11 and #12 were both  
2 copies of the rear -- or, photos, of the rear of  
3 the drycleaners.

4           MR. ALBERTI: Rear of the drycleaners. Do  
5 you have those?

6           CHAIRPERSON ANDERSON: All right, so which  
7 was #11, which one is #12?

8           MR. KLINE: Number eleven.

9           CHAIRPERSON ANDERSON: Okay, all right. Do  
10 you have a problem with it Mr. Jayaraman?

11          MR. JAYARAMAN: Again, as I stated, these  
12 pictures were submitted and filed not in  
13 accordance with the board order, on Saturday  
14 October the 1st, as opposed to Friday, September  
15 30th. The fact that we've had testimony with  
16 respect to them was the reason I asked previously  
17 when was the appropriate time to object to those  
18 being included, and the chair notified us that  
19 the right time to do it is now.

20          CHAIRPERSON ANDERSON: Yes.

21          MR. JAYARAMAN: So, again, I maintain our  
22 objection with these being included at this time.

1 CHAIRPERSON ANDERSON: So, yes?

2 MR. KLINE: If I may. I mean, I'm looking at  
3 the board's official notice that was served on us  
4 and it says that a protestant's information form  
5 must be filed by the applicant and the  
6 protestants seven days before the protest  
7 hearing, which is extended in this case, or the  
8 protestor's license application may be dismissed.  
9 A copy of the PIP is enclosed. There isn't a  
10 statement concerning the exhibits. It's been  
11 customary to exchange them. We did that in this  
12 case, and the only other thing included in that  
13 is the exhibit form. And that's an e-mail from  
14 Amani Moreland, dated May 26, 2016, titled  
15 Official Hearing Notice.

16 CHAIRPERSON ANDERSON: Mr. J -- I don't see  
17 how you've been prejudiced by this document with  
18 a one day late filing, so I'm going to allow #11  
19 to be a part of the record. I know that you're  
20 going to have the same standing objection to #12  
21 and I will -- I'm also going to rule against you  
22 on #12. Yeah, #12 is a part of the record.

1 What's #13?

2 MR. KLINE: Number thirteen is a photo of the  
3 power washer.

4 CHAIRPERSON ANDERSON: Okay. Mr. Jayaraman,  
5 is it the same objection?

6 MR. JAYARAMAN: If it's along those same  
7 exhibits, then yes.

8 CHAIRPERSON ANDERSON: All right. Number --  
9 the power washer is #13 and is a part of the  
10 record. Number fourteen?

11 MR. KLINE: Number fourteen was applicant's  
12 exhibit #5. It's an e-mail from John Renninger  
13 to Capitol -- to the ANC and -- regarding Capitol  
14 Hill trash.

15 CHAIRPERSON ANDERSON: Hold on. Which one is  
16 that?

17 MR. KLINE: Applicant's -- it was originally  
18 labeled Applicant's #5.

19 CHAIRPERSON ANDERSON: Okay. So, that's #14?

20 MR. KLINE: Fourteen.

21 CHAIRPERSON ANDERSON: Mr. Jayaraman do you  
22 have any questions -- any problems with document?

1           MR. JAYARAMAN: We retain the same objections  
2 for the correct submission. I understand your  
3 decision.

4           CHAIRPERSON ANDERSON: All right. Number 14.

5           MR. KLINE: And then #15 was applicant's  
6 exhibit #7 and it's the general manager's daily  
7 checklist and the list of responsibilities for  
8 personnel.

9           CHAIRPERSON ANDERSON: Mr. Jayaraman, #15?

10          MR. JAYARAMAN: No objections to that one.

11          CHAIRPERSON ANDERSON: Number #15 is a part  
12 of the record. That's it?

13          MR. KLINE: That's it.

14          CHAIRPERSON ANDERSON: All right, so I've  
15 accepted applicant's exhibits one through 15.

16          MR. KLINE: And with that the applicant  
17 rests.

18          CHAIRPERSON ANDERSON: I'm sorry?

19          MR. KLINE: And with that the applicant  
20 rests.

21          CHAIRPERSON ANDERSON: All right. Thank you.  
22 It's now for the protestant to present its case.

1 Do you need a break or do you want to go straight  
2 -- do you want to go straight through?

3 MR. JAYARAMAN: Five minutes?

4 CHAIRPERSON ANDERSON: Okay. We'll have a  
5 five minute break. We're going to recess for  
6 five minutes. Thank you.

7 [interlude]

8 As I said, this has been almost a year. This  
9 is our second late night in almost a year since  
10 I've been chair, so I don't want to hear from  
11 anyone, okay? I've been sending folks home early  
12 every night. That's what I'm saying, since I've  
13 been chair in November this is the second late  
14 night we've had and last week everyone went home  
15 at 4:30. The week before it was like they don't  
16 know what to do with themselves because they've  
17 been going home so early. So, I am, I'm up to be  
18 here so I'll let you know that, okay?

19 MR. ALBERTI: We appreciate it.

20 CHAIRPERSON ANDERSON: All right. We are  
21 back on the record. Mr. Jayaraman do you have  
22 another witness to all?

1           MR. JAYARAMAN: Yes, Mr. Chair, I would like  
2 to call Mr. Wyhan Dansby to the --

3           CHAIRPERSON ANDERSON: Mr. Dansby? Mr.  
4 Danbsy, can you raise your right hand? Do you  
5 swear or affirm to tell the truth and nothing but  
6 the truth?

7           MR. DANSBY: Yes.

8           CHAIRPERSON ANDERSON: Have a seat please.

9           MR. DANSBY: Thank you.

10          MR. JAYARAMAN: Mr. Dansby, could you share  
11 with the board where you live in proximity to Ms.  
12 Jocelyn Hong, which we have established as being  
13 just to the east of the alley that extends from C  
14 Street?

15          MR. DANSBY: Yes, I live at 308 C Street  
16 Southeast in Washington, D.C. I live directly  
17 behind 317 Pennsylvania Avenue which has been  
18 referred to as the BB & T building. And I'm  
19 right next --

20          MR. JAYARAMAN: You're next to Jocelyn Hong's  
21 house.

22          MR. DANSBY: Correct. Yes.



1           MR. JAYARAMAN: Okay, so the rear of your  
2 property is up against -- abuts the exterior  
3 trash storage area, is that correct?

4           MR. DANSBY: That is correct.

5           MR. JAYARAMAN: And the trash storage kind of  
6 comes to a point at the end of your property  
7 line, is that right?

8           MR. DANSBY: That is correct.

9           MR. JAYARAMAN: Okay. We've talked a lot  
10 about the different issues. Have you had  
11 problems with trash being an issue for you and  
12 your family?

13          MR. DANSBY: Not in the same way that Jocelyn  
14 has. The issue that we have is that I can take  
15 this pen and I can literally touch one of the  
16 trash bins, because if this is my fence, I can  
17 touch a trash bin, that's how close, so  
18 essentially I have a trash bin in my back yard  
19 and I heard testimony that, you know, the  
20 neighbors agreed with the Mendelsohn family about  
21 how we were all, you know, agreeing to their plan  
22 early in 2013, and I don't remember going insane

1 and agreeing to have a trash bin placed within  
2 six inches of my property line.

3 MR. JAYARAMAN: Did they ever ask you or  
4 consult with you about whether -- whether that  
5 would be a good idea to place three giant  
6 [inaudible 9:28:36] dumpsters right behind your  
7 property and two recycling dumpsters. We'll  
8 consult with you on that.

9 MR. DANSBY: No. At that time there were no  
10 recycling dumpsters, it was just all garbage.

11 MR. JAYARAMAN: Okay.

12 MR. DANSBY: The recycling dumpster portion  
13 is something new, so for the last three years  
14 we've essentially had trash dumpsters directly  
15 behind our home. These were, you know, as has  
16 been mentioned before, were flies -- a cloud of  
17 flies constantly hovering in our yard. At night,  
18 you could hear the rats fighting for food and  
19 during the heat as has been mentioned the rats  
20 would die between that chain link fence and my  
21 wood fence and it would smell like death and  
22 feces and urine, so effectively for the last

1 three, going on four, years we have not been able  
2 to use our back yard, and you know, our  
3 neighborhood at 306 C Street has not been able to  
4 use his as well, so basically you have three  
5 contiguous properties at least as we're affected  
6 that are not able to take advantage of their  
7 property that we're paying a mortgage on.

8 MR. JAYARAMAN: Mr. Dansby, do you have any  
9 children?

10 MR. DANSBY: I have two children, yes.

11 MR. JAYARAMAN: Boys or girls?

12 MR. DANSBY: One and one.

13 MR. JAYARAMAN: One and one. What do you  
14 tell them when they ask, 'hey, daddy, can I go  
15 out to the back yard and play?'

16 MR. DANSBY: I tell them they can't because  
17 it's not clean. We can't really go out there.  
18 So, I have a six-year-old son, he was born in  
19 2010, he's never had a play date in his back  
20 yard. He can't take his trucks out there. He's  
21 kind of grown out of trucks. But he can't take a  
22 ball out. You can't even wear shoes out there

1   because you'd have to leave them at the doorstep  
2   because you'll track in, you know, feces and  
3   whatever and then you might come out there and  
4   there's a rat running around, so, you know,  
5   you're worried about being bit. So, for me, this  
6   isn't a legal, technical issue, this is about  
7   just being able to live comfortably in my own  
8   home.

9           MR. JAYARAMAN: Have you -- are you aware of  
10   the health problems that feces and when they dry  
11   and they go into the air can cause the children?

12          MR. DANSBY: I'm not aware of that. I mean,  
13   you know, we're mainly concerned about tracking  
14   it through, but we have rugs, we don't want that,  
15   so we spend a lot of time bleaching down back  
16   there. We pour bleach behind where the carcasses  
17   are dead just to kind of tamp down the smell,  
18   but, you know, I'm not sure about -- I don't know  
19   about the breathing issues. We're mainly  
20   concerned with tracking feces into the home if we  
21   go back there.

22          MR. JAYARAMAN: What other measures have you

1 taken to essentially hold off the vector of the  
2 rodents that are attempting to burrow in your  
3 yard.

4 MR. DANSBY: Well, we had to put one-foot  
5 flashing all across the perimeter of the fence.  
6 We used to share an exit door with Jocelyn,  
7 because every once in a while you may need to get  
8 an appliance in and out, or furniture, so we've  
9 had to basically shut that off so we can't access  
10 -- we're kind of land locked, so we can't get,  
11 unless we break that whole thing down we can't  
12 use that access fence because we've had to put  
13 flashing on there. But what happened since we  
14 secured it all, the rats now jump -- because of  
15 that chain link fence, even though they've taken  
16 down that chicken wire, they can still climb up  
17 and still drop into our yard. So it's actually  
18 worse, because at one point at least they could  
19 find a way out but now they're trapped. So, we  
20 might come out there and, you know, you never  
21 know and there's a rat or two just running around  
22 your yard and trying to jump out and eventually,

1 I don't know, sometimes they can get out because  
2 they keep scratching and jumping over the fence,  
3 sometimes they die and then you have to scoop up  
4 a rat and trash it in a yard that you can't use  
5 for anything other than that. So.

6 MR. JAYARAMAN: Let's say in the last three  
7 years, how many rodents have you had to clean up  
8 or get rid of?

9 MR. DANSBY: It's usually -- well, there's  
10 ones that you have to clean up which are probably  
11 one every 45 days or so, but one will usually  
12 drop back there once a month or so. Some, after  
13 a while, they get so big they can't climb that  
14 well, so it's usually the younger ones.

15 MR. JAYARAMAN: And you have to exterminate  
16 those?

17 MR. DANSBY: We don't -- sometimes -- we used  
18 to put those poison blocks out there so we'd go  
19 and have to go to Frager's or somewhere and  
20 that's like 35 bucks for a box of those, and  
21 that's when we were still trying to use it, and  
22 then we just sort of just gave up because it's

1 just -- it just never ended, so basically, just  
2 said --

3 MR. JAYARAMAN: Where do you see them coming  
4 from?

5 MR. DANSBY: They climb up -- there's the  
6 chain link fence that's around --

7 MR. JAYARAMAN: The chain link fence is  
8 where?

9 MR. DANSBY: It sits right next to my wooden  
10 fence.

11 MR. JAYARAMAN: And on one side of the chain  
12 link fence is what?

13 MR. DANSBY: The garbage -- the garbage bins.

14 MR. JAYARAMAN: So, the applicant's exterior  
15 dumpsters, food dumpsters, are on that side?

16 MR. DANSBY: Right, right up against the  
17 fence.

18 MR. JAYARAMAN: Right up against the fence.  
19 Okay. Do they crawl on the wall that's up there?

20 MR. DANSBY: Yeah, our neighbor, because the  
21 -- Walter Karesh -- his -- the rats were running  
22 to his yard. Our yard is brick paved. His yard

1 is dirt so they run across into his yard and then  
2 burrow and nest there and then just sort of hang  
3 out. So, there was sort of a race track between  
4 where the dumpster is into his yard, so they've  
5 just kind of trekked back and forth in there.  
6 And he then put up a concrete wall to stop them  
7 from coming into his yard but -- so now they just  
8 circle around between the dumpster area and then  
9 they can still climb that chain link fence and  
10 then drop into our yard, because there's like a  
11 little pole, they'll climb up and then they can  
12 jump up onto sort of a, you know, red brick and  
13 they sometimes drop in to our yard, but they also  
14 drop into his yard, too.

15 MR. JAYARAMAN: Yeah. You know, a lot's been  
16 made about neighbors calling them if they have a  
17 problem. Have you notified them of this kind of  
18 issue where the fence acts almost like a ladder  
19 for them to move about?

20 MR. DANSBY: Yeah, that was when -- that was  
21 my initial recommendation was to try to --  
22 because the 317 Pennsylvania Avenue which I can



1 touch with my hand, too, there's the corner of  
2 that building that sits next to my fence. My  
3 initial suggestion was to put a concrete barrier  
4 up before that chain link fence was there. My  
5 initial suggestion was to put one where it  
6 touches that corner of BB & T building, 317  
7 Pennsylvania, and then touch it to Jocelyn's  
8 house because then the rodents wouldn't have that  
9 refuge into my neighbor, I guess if I'm facing my  
10 street to my left, going towards 4th Street. But  
11 what we found, you know, when I came home one day  
12 they were putting up the chain link fence which  
13 actually made it worse because it just provided  
14 an access point for the rodents to both run into  
15 Walter's yard at 30 -- he's at 310, excuse me,  
16 310 -- so they run from 306 -- from the alley  
17 past 306 through the dumpster area into 310 and  
18 then can climb up on that chain link fence.

19 MR. JAYARAMAN: They said they put up this  
20 chicken wire and then took it down. How many, if  
21 at all, did they consult with you about whether  
22 that was appropriate or whether that was

1 something you wanted and you know.

2 MR. KLINE: I'm going to object at this  
3 point. I've let it go on for a while. We seem  
4 to be talking about a rodent or pest problems  
5 which is what their other witnesses testified to.  
6 We're far afield from -- I mean, we agree that  
7 essentially trash management and the requirements  
8 of licensees are in equal measure as well as the  
9 environs of the establishment, but now we're  
10 talking about pest control? We're in the wrong  
11 department, in my opinion. I object to the line  
12 of questioning and would like to get us back on  
13 task related to issues that area relevant under  
14 the ABC statutes or the regulations.

15 MR. JAYARAMAN: It's the lack of trash  
16 management, the poor trash management, that is  
17 causing these additional issues. They are very,  
18 very directly related. To the extent that lids  
19 were closed, that they were stored inside, to the  
20 extent that the additional measures were in  
21 place, we wouldn't be here. There wouldn't be  
22 rats crawling up on his fence and falling into

1 his back yard.

2 MR. KLINE: We don't know that.

3 MR. JAYARAMAN: That's the truth.

4 MR. KLINE: We don't know that. I mean,  
5 there's already been testimony that there were  
6 rats when these restaurants opened. So, we don't  
7 really know that, and I'm not sure, and I would  
8 place the case in terms of this board sticking  
9 with the issues that are relevant under its  
10 statutes and not doing the work of other agencies  
11 that hopefully [inaudible 9:39:20] know where we  
12 live but hopefully have more expertise. And the  
13 other issue is we're here because it's a trash  
14 management issue and it is under the ABC statute,  
15 whether we agree or disagree, it is, and we can  
16 see that and we're here. But when you start  
17 talking about rodent control and you have other  
18 businesses that are not ABC licensed and it's the  
19 city and their residences and there are a whole  
20 lot of different issues I just don't see how  
21 that's relevant under our ABC statutes.

22 CHAIRPERSON ANDERSON: Well, I disagree, and

1 I -- I'm going to overrule the objection and what  
2 I'm hearing, and maybe I'm not hearing it  
3 correctly, I'm hearing that the witness is  
4 testifying that there is three dumpsters placed  
5 upon his back yard fence that belongs to this  
6 licensee and what -- at least this is what I  
7 think I'm hearing -- that he is experiencing the  
8 rodents that are feeding on the -- for whatever  
9 reason, whether or not it's rodents or just  
10 living in the neighborhood or they're there  
11 because of the dumpster that's -- that's on his  
12 property.

13 MR. KLINE: Well, I don't want to belabor it  
14 but just I think it's important and that's why I  
15 want to speak to it a little bit more, is that's  
16 an effect, and we agree that that is a potential  
17 effect, but under the statute, in order for it to  
18 be relevant what must be the cause of that effect  
19 is the licensee's failure to act reasonably in  
20 controlling the environment. And so --

21 MR. JAYARAMAN: And that's exactly the case.

22 CHAIRPERSON ANDERSON: Hold on, sir

1           MR. JAYARAMAN:  -- that is not really the  
2 point.  The point is -- the cause -- and whether  
3 or not, and we think the issue is pretty narrow -  
4 - whether or not this licensee has taken  
5 reasonable measures to control litter in the  
6 environs of his establishment to paraphrase the  
7 statue.

8           CHAIRPERSON ANDERSON:  But, what I'm hearing  
9 from the witness is  that he doesn't believe that  
10 the licensee has taken reasonable measures to  
11 control it.  At least that's what I think I'm  
12 hearing.  That's from his perspective.  I mean,  
13 he's stated from what I'm hearing he's saying  
14 that they have not -- I think one of the things  
15 that he testified to was that once they put up  
16 this chain link fence the problem became worse,  
17 so I guess from his perspective he's saying they  
18 have not taken reasonable measures to control  
19 what's going on in the neighborhood.  So, the  
20 objection is overruled.  So, go ahead.

21           MR. JAYARAMAN:  Thank you.  Do you have a  
22 visual ability to view this exterior trash

1 storage area from your property, anywhere within  
2 your property?

3 MR. DANSBY: Yes, I can see from my son's  
4 room in the rear, I have a line of sight view  
5 directly to the area behind the chain link fence  
6 and I've submitted photographs to the department  
7 of health regarding these. I've submitted to the  
8 ANC on any number of occasions regarding -- over  
9 the last three years.

10 MR. JAYARAMAN: Would you characterize the  
11 overflow of trash and even recyclables --  
12 overflow occurs on a regular basis or very  
13 infrequently?

14 MR. DANSBY: Very frequently. Very  
15 frequently. In fact, if I checked every day, I  
16 mean I could make a statistical count and  
17 everyone's saying why aren't you calling this  
18 person? I have a life to live. I don't -- I'm  
19 not part of their business, I'm not obligated to  
20 call anyone. If I feel like calling, I'll call,  
21 but I have my own business to deal with and I  
22 don't have time for three years running to call

1 someone every time I see something, you know, I  
2 mean that's not really the standard I am going to  
3 be held to. I've reached out to my ANC reps,  
4 I've reached out to you through my ANC rep, I've  
5 reached out to the department of health, I've  
6 called the mayor's office, they've sent somebody  
7 out -- I can't remember the gentleman's name --  
8 they walked the property. So, you know, those  
9 are my reasonable efforts. I'm not part of the  
10 Mendelsohn's operation. I don't need to call  
11 them. I'll call the people that represent the  
12 city and let them deal with it. So, you know, to  
13 answer 'why haven't you called?' That's why,  
14 because I have my own approaches which is to  
15 reach out to the officials of the city and that's  
16 why I've been here since 1:00 because I want to  
17 make sure that the people who actually are  
18 decision makers and officials are informed about  
19 my perspective. You know, I did try to reach out  
20 to the Mendelsohn family. I got a letter from  
21 their lawyer, you know, basically -- I can't  
22 remember all the details of the letter, but

1 they're -- I came to them with their response  
2 regarding health and safety issue and I got a  
3 legal response and I don't really know how you  
4 communicate with someone when you're in one camp  
5 thinking about your children, and they're in  
6 another camp thinking about 'how do I legal my  
7 way out of this?' My kids are not a legal issue.  
8 They're my children and I'd like to have them be  
9 in an environment where they aren't scared to go  
10 outside or they can play in their own yard and  
11 enjoy themselves.

12 MR. JAYARAMAN: One final question. One of  
13 the issues is that they have regular trash  
14 pickups. Do you see any evidence that might  
15 prohibit trash removal companies from being able  
16 to empty the trash cans so that they can be --  
17 you know, so they can reduce the amount of trash  
18 that overflows?

19 MR. DANSBY: Yeah. One thing that hasn't  
20 been mentioned is they have a pizza delivery  
21 operation that runs out of the alley that we've  
22 been talking about all evening and that starts in



1 the afternoon, and there's sometimes -- I have a  
2 video -- I don't know if we can enter it -- I  
3 have a video of -- from last night -- where three  
4 cars are going right past my home in and out of  
5 this alley, and it starts in the daytime, so I  
6 don't know how you can have this additional trash  
7 pickup -- I know they come in the morning and in  
8 the late morning I know that the recycling team  
9 comes, but by afternoon they've got their pizza  
10 delivery operation which clogs the alley. We  
11 have neighbors who call the department of  
12 transportation about ticketing these people, and  
13 I know they've got tons of tickets, but sometimes  
14 there's three deep cars in the alley that are  
15 just there for pizza delivery, so I'm not sure  
16 how they do it with this constant flow of traffic  
17 --

18 MR. JAYARAMAN: So, it is possible that the  
19 trash truck pulls up and they can't get in there  
20 to even get to the dumpsters and then they drive  
21 off?

22 MR. DANSBY: Of course.

1           MR. KLINE:  Objection.  He's leading the  
2   witness.

3           CHAIRPERSON ANDERSON:  Sustained, meaning  
4   that you can't ask that question and you can't  
5   answer it so you can -- if you want to ask the  
6   question you need to rephrase it, sir.

7           MR. JAYARAMAN:  Do you think it's possible to  
8   remove trash if there's cars blocking access to  
9   the trash area?

10          MR. DANSBY:  Well, the truck comes up to the  
11   alley and then the gentlemen jump out of the  
12   truck and then they have to carry the trash bin -  
13   - they roll the trash bins to the truck and then  
14   they're loaded, but there's no way to do that if  
15   there's even one car in there.  But, I mean, you  
16   can come there, we can drive over there now, and  
17   you'll see cars in and out of there and you can  
18   come in the afternoon and their pizza delivery  
19   operation is up and running, so -- there may be a  
20   magical way to do it but I don't know how they do  
21   it with the cars there.

22          MR. JAYARAMAN:  I've got no more questions.

1 CHAIRPERSON ANDERSON: Mr. Kline?

2 MR. KLINE: Mr. Dansby, the alley is wider  
3 than a car isn't it?

4 MR. DANSBY: Well, it would have to be,  
5 otherwise the car wouldn't be able to do that.

6 MR. KLINE: Right, and even if there were  
7 cars parked there when the trash truck came to  
8 pick up the bins are rolled down the alley,  
9 correct? And they could roll them down the  
10 alley, couldn't they?

11 MR. DANSBY: No. I've been living there  
12 since 2004 and I haven't measured the alley but  
13 if you put even a small economy car down the  
14 alley you cannot roll one of their trash bins  
15 past a car in the alley.

16 MR. KLINE: Do you have anything other than  
17 pure speculation that their trash is not being  
18 picked up two times a day?

19 MR. DANSBY: I just -- I work -- I have a  
20 home office right there at the location. Like I  
21 said, I've been there since 2004, all right? And  
22 if there are -- if they are coming it's very --

1 it would be very difficult for me to have never  
2 seen them. I did say that I see the first pickup  
3 in the morning because I hear them in the  
4 morning, and I do see the recyclable pickup.  
5 Now, I'm not there all day every day, but I do  
6 see the gentlemen who are doing pizza delivery  
7 and they're there throughout the afternoon, so I  
8 can't testify with 100% certainty. I'm just  
9 saying there's got to be times when those guys  
10 are in there and they're not always sitting in  
11 their car waiting for someone to get out, or to  
12 get into the alley. So, it's not -- where you're  
13 talking about reasonable, it's not reasonable for  
14 me to believe that the trash truck might come and  
15 they're not able to get to it.

16 MR. KLINE: Is it reasonable for you to  
17 believe that John Renninger sat on that stand and  
18 lied that the establishment was having trash  
19 pickup twice a day? Is that reasonable for you  
20 to believe?

21 MR. DANSBY: I've never met him, he seems  
22 like a standup guy, I'm not here to refute his

1 testimony, I'm just telling you what I've seen.

2 MR. KLINE: So, you're not refuting his  
3 testimony that the establishment has trash pickup  
4 twice a day, is that what you just said?

5 MR. DANSBY: I'm not -- they might be coming  
6 at night, I don't know, I'm not there to monitor  
7 their business. All I'm saying to you is that  
8 when I see pizza delivery cars in an alley, you  
9 know, throughout the afternoon, I don't know how  
10 a trash truck can get there and pull dumpsters  
11 into an alley, that's all I.

12 MR. KLINE: Before the trash was moved to the  
13 -- we'll call it the BB & T side -- the trash  
14 bins lined the alley, didn't they?

15 MR. DANSBY: I would believe so, yeah.

16 MR. KLINE: Well, you've been there since  
17 2004, correct?

18 MR. DANSBY: Yes, I was. Before 2000 --  
19 before the Mendelsohn group got there, there were  
20 no trash bins behind there at all.

21 MR. KLINE: And the Mendelsohns have been  
22 there since 2008.

1 MR. DANSBY: Yeah, but I got there in 2004.

2 MR. KLINE: Right.

3 MR. DANSBY: Before they got there in 2008  
4 there were no trash bins.

5 MR. KLINE: But in 2008, the first restaurant  
6 opened, and then at that point even the previous  
7 tenants were apparently [inaudible 9:51:16] the  
8 trash, there was trash generated from Good Stuff,  
9 correct?

10 MR. DANSBY: Yeah, I mean if they were open  
11 and they were selling burgers they were  
12 generating trash, absolutely.

13 MR. KLINE: And then in 2010, when We The  
14 Pizza opened, it also generated trash, correct?

15 MR. DANSBY: Yeah, and that's when we started  
16 to see the explosion of activity.

17 MR. KLINE: All right. And then about 2013  
18 the alley or driveway or whatever it's called out  
19 to 3rd Street by Co-C was closed, wasn't it?

20 MR. DANSBY: See, I don't know the exact date  
21 of that. I mean, I know it happened, but like I  
22 said, I have my own life to live, I'm not really

1 -- I'm on a residential side and what goes on in  
2 the commercial side -- somebody told me about a  
3 restaurant right around the corner from me I've  
4 never heard of before.

5 MR. KLINE: But my only question is, did it  
6 happen? The driveway got closed, correct?

7 MR. DANSBY: It -- I have to say it did. I  
8 don't remember the exact date 'cause I'm not  
9 monitoring everything that goes on on  
10 Pennsylvania Avenue or 3rd Street.

11 MR. KLINE: Did you attend a meeting at  
12 Bernaise Restaurant that was organized by ANC  
13 commissioner, David Garrison, in 2013 to discuss  
14 the trash issue?

15 MR. DANSBY: I did. I did attend that  
16 meeting.

17 MR. KLINE: Okay, and at that meeting there  
18 was discussion of moving the trash from where it  
19 was stored in the bins lining the wall to the BB  
20 & T lot, wasn't there?

21 MR. DANSBY: Yeah, but there was nothing  
22 specific about that in terms of four or five

1 trash cans or that the trash would be laid open  
2 throughout the day, no one discussed that.

3 MR. KLINE: All right, so when you said that  
4 you weren't consulted or it seems like you didn't  
5 know about it, that's not really true, is it?

6 MR. DANSBY: Well, it's not true because I  
7 can attend one meeting, that doesn't mean I'm  
8 fully informed and it doesn't mean that I'm going  
9 to be brought into discussions on an ongoing  
10 basis about the final disposition of an issue, so  
11 I can come to a meeting and we can drink tea and  
12 then you leave and then what people really are  
13 going to do can be talked about after that, so I  
14 was brought in for one meeting and the only other  
15 meetings that I have had with anyone affiliated  
16 with the Mendelsohns have been at official ANC  
17 sponsored meetings. There's been -- I've not  
18 been consulted about anything regarding anything  
19 going on. Only time I've ever been in a meeting  
20 or even been invited to a meeting is when it's an  
21 ANC official meeting.

22 MR. KLINE: And that's because -- which I



1 understand -- you have other things to do in your  
2 life and this is not what you want to spend your  
3 time doing. You think that it's not my place to  
4 run the Mendelsohns' business, correct?

5 MR. DANSBY: Well, yeah, but I came here  
6 since 1:00 so clearly if there's something  
7 pressing I certainly will make time to deal with  
8 it.

9 MR. KLINE: Right. So, you don't have time  
10 to spend working with Mendelsohns on this problem  
11 but you have time to be here, you have time to  
12 call the department of health --

13 MR. DANSBY: Absolutely.

14 MR. KLINE: -- you have time to call the  
15 mayor's office --

16 MR. DANSBY: Absolutely.

17 MR. KLINE: -- and what were the other  
18 official channels did you?

19 MR. DANSBY: ANC.

20 MR. KLINE: The ANC.

21 MR. DANSBY: Yes.

22 MR. KLINE: So, that's where you spend your

1 time rather than working on a cooperative  
2 solution, is complaining to authorities. Is that  
3 correct?

4 MR. DANSBY: Well, if I feel like they're not  
5 listening to my issues and I'm not getting any  
6 mutual cooperation, if you came home and then all  
7 of a sudden someone is erecting a fence in your  
8 back yard and, not only that, pushing your fence  
9 over and destroying the integrity of your fence,  
10 that's not really, you know, something I  
11 consulted them about -- 'hey, why don't you put a  
12 fence in my back yard and put some chicken wire  
13 on it and then push my fence over and disrupt the  
14 integrity of my fence.' I mean that's -- so, you  
15 know, I did, I did respond about that and I got a  
16 letter from the Arlington Law Group.

17 MR. KLINE: Right. And isn't it true that  
18 prior to that you were invited to a meeting with  
19 Sylvia and with Micheline to discuss these issues  
20 and that you didn't respond.

21 MR. DANSBY: Well, what would happen in  
22 reality? Meetings would get called, scheduled --

1 MR. KLINE: Just answer my question.

2 MR. DANSBY: No, the answer is no.

3 MR. KLINE: None of that has ever happened?

4 MR. DANSBY: Well, the answer is the meetings  
5 would get called and then they'd be cancelled by  
6 other people and then, I don't have time to, 'oh,  
7 well, I need to go to this meeting, so I'll  
8 cancel my work.' 'Cause today I made no money  
9 because I have to earn money to make a living to  
10 pay my mortgage, so I don't have time to -- every  
11 time somebody cancels a meeting, then they decide  
12 to reschedule it, I'm going to cancel my income  
13 so that they can have their meeting. This is  
14 what really happened. Meetings would get  
15 cancelled and then somebody would reschedule them  
16 and then everyone who was at the initial meeting  
17 couldn't make it. That's what really happened.

18 MR. KLINE: I'm asking you about one meeting.  
19 I'm not asking you about a bunch of meetings, I'm  
20 asking about a specific meeting --

21 MR. DANSBY: What day was this meeting?

22 MR. KLINE: That was in the fall of 2015.

1 MR. DANSBY: I don't --

2 CHAIRPERSON ANDERSON: I think Mr. -- and I'm  
3 going to object to the question. I don't think  
4 you can ask him were you at a meeting in the fall  
5 of 2015.

6 MR. KLINE: I wasn't asking him if he was at  
7 a meeting, I was asking him if he was invited to  
8 a meeting and failed to attend.

9 CHAIRPERSON ANDERSON: But I think you're --

10 MR. JAYARAMAN: But your point --

11 CHAIRPERSON ANDERSON: Hold on, hold on --  
12 and the reason why I'm interjecting is because  
13 since you're not a -- you can't ask the person  
14 were you invited to a meeting in the fall of 2015  
15 and I think if you have a specific date to ask, a  
16 specific date when the meeting was because that's  
17 just so -- to me, I don't know what you're  
18 talking about because that doesn't tell me, so I  
19 would ask that you pinpoint a date to when this  
20 meeting is, if such a meeting, and then he needs  
21 to answer the question.

22 MR. KLINE: I have no further questions.

1 CHAIRPERSON ANDERSON: I'm sorry?

2 MR. KLINE: I'll withdraw and we have no  
3 further questions.

4 CHAIRPERSON ANDERSON: Okay. Well, I have a  
5 question to ask you. Mr. Dansby?

6 MR. DANSBY: Yes, sir?

7 CHAIRPERSON ANDERSON: It's my understanding  
8 that at least from the board's perspective, we  
9 have two options. We can not renew the license  
10 which, and if the board decides not to renew the  
11 license that's not going to address the issues  
12 because as was stated before, there are other  
13 establishments there that don't have an ABC  
14 license and there are still issues. So, either  
15 if the board was to do the extreme and not renew  
16 the license, there'd still be a trash problem and  
17 so the dumpsters will still be there. Then the  
18 ABC board would not have jurisdiction because  
19 they're not selling liquor. Or we can come up  
20 and fashion some type of remedy. So, what is it  
21 that you want the ABC board to do?

22 MR. DANSBY: Well, first, Chairman, I would

1 have to respectfully disagree with that analysis.  
2 It sounds like it's the rational conclusion to  
3 reach but the trash bins that are directly behind  
4 my yard are not used by every restaurant in that  
5 area, they're only used by the restaurants that  
6 the Mendelsohns.

7 CHAIRPERSON ANDERSON: I think you're  
8 misinterpreting my question. What I'm saying, if  
9 the ABC board was to state, 'you know, at the  
10 end of the day, that we agree with the  
11 protestants and we cancel the license,' that's  
12 not going to solve your problem because they can  
13 --the restaurant is still open, they just cannot  
14 sell alcohol and what's been stated --

15 MR. DANSBY: Oh, I see.

16 CHAIRPERSON ANDERSON: -- what I've heard  
17 today, you have a Laundromat, you have this other  
18 restaurant that's there and since they don't have  
19 a liquor license they don't have to report to the  
20 ABC board.

21 MR. DANSBY: I'm sorry.

22 CHAIRPERSON ANDERSON: What I'm stating to

1   you is that even if we were to do the extreme  
2   it's not apparent that it -- it's not going to  
3   address the issues. What is it that you're  
4   asking the board to do?

5           MR. DANSBY: I'm -- and I'm sorry, I'm clear  
6   on your question now. Yes, I think some of the  
7   recommendations that have been developed over the  
8   last year are sound, you know. I would --

9           CHAIRPERSON ANDERSON: I haven't heard the  
10   recommendations but I'm hoping someone will have  
11   them.

12          MR. DANSBY: Oh at other meetings. Oh, I'm  
13   sorry.

14          CHAIRPERSON ANDERSON: The ABC board -- we  
15   have not heard the recommendations so I assume  
16   someone's going to provide us, the board, with  
17   some recommendations at some point in these  
18   proceedings. Is that correct?

19          MR. JAYARAMAN: Yes, correct.

20          CHAIRPERSON ANDERSON: Okay.

21          MR. DANSBY: I wasn't aware that you hadn't -  
22   - but I think that the issue has to deal --

1 you've got to deal with the volume of garbage  
2 that is directly, fro my standpoint, and I'm only  
3 speaking from where I live right directly behind,  
4 I'm at sort of ground zero and so when I -- I  
5 deal with it all the time and so when they only  
6 occasionally have a bad day well that doesn't  
7 really say much to me, 'oh, so what? We had a  
8 bad day.' Well, that smells up my yard. I can't  
9 open my windows on that bad day. I can't open my  
10 back door on that bad day, that occasional bad  
11 day. Well, that occasional bad day makes my  
12 kitchen smell like a garbage can, that's what the  
13 occasional bad day means to me and that's why I'm  
14 here tonight because there's a, you know, people  
15 are talking about cause and effect, well that's  
16 the effect in my home. Okay? Flies and  
17 mosquitoes, you know, I mean you can't even fog  
18 them away. So, I mean I can't chalk it up to  
19 'oh, well, that's D.C. Yes but it's -- the  
20 impact is more than 'oh that's just D.C.' for me.  
21 I can't tell my kids, 'hey, that's just D.C.  
22 Suck it up, boy.' You know? My kids are like



1 'why do we live in this crummy neighborhood?' I  
2 said, 'you live in a great neighborhood.' I  
3 said, 'people come from all over the world to  
4 come to our neighborhood.' But they think they  
5 live in the worst part of the ghetto because  
6 they've seen -- they smell this and they see it  
7 and my son, instead of playing he's back in the  
8 back sweeping up rat poop at six years old. So,  
9 that's not D.C. And I don't mean to direct this  
10 at you, sir, and I'm just --

11 CHAIRPERSON ANDERSON: I asked the question,  
12 so --

13 MR. DANSBY: I mean three years of this and,  
14 you know, we keep spinning and spinning and  
15 spinning and going around and around and around  
16 and it's the same thing. So, when I moved in  
17 2004 to my place I had cookouts back there,  
18 parties. My daughter, who's 11 now, she had  
19 played dolls back there, and now I can't even go  
20 back there.

21 CHAIRPERSON ANDERSON: So what changed? From  
22 what I was told, there was an establishment that

1    was there, you had two establishments there, I  
2    think in 2008, and then the last establishment  
3    opened in 2013, so --

4           MR. DANSBY:   Right.

5           CHAIRPERSON ANDERSON:   -- what changed?

6           MR. DANSBY:   There -- when I moved there,  
7    there were no trash bins behind stored behind --  
8    directly behind my home, okay?  That's what  
9    changed.  If there was a trash bin and we were  
10   outside sitting right here, you wouldn't want to  
11   have a meeting here.  Would you want to invite  
12   your wife out on a date with the trash bin?  I  
13   can't even buy used furniture in my back yard.  I  
14   can't have tiki torches and have a cookout.  I  
15   can't even have a spring and summertime party in  
16   my home because I'm worried that a guest might be  
17   terrified because something's going to jump over  
18   -- or even if they don't jump over, they can hear  
19   the rats rustling around and clawing and  
20   squealing at each other.  It's like a jungle back  
21   there.  The sun goes down, fights start.  So, I'm  
22   not in the restaurant business, you know.  I'm a

1 homeowner, taxpayer, you know. I vote every  
2 season and I just want those rats to be gone.  
3 I'm not in the restaurant consultation business,  
4 all right? I can just tell you what I've  
5 experienced, you know, and it's not been -- it's  
6 been very unpleasant, you know. So, if -- if --  
7 if people who know better than me think that  
8 moving the trash and storing it inside is the  
9 best opportunity and it gets it out of my back  
10 yard or if they can fly a helicopter down and put  
11 the bins on the helicopter and fly them away, you  
12 know, it doesn't matter to me, you know. All I  
13 know is that I just want to use my back yard. I  
14 want my kids to be able to play back there. I  
15 want to be able to go and grill a burger every  
16 once in a while or maybe just sit back there and  
17 eat one, you know? That's my only interest.  
18 What they do and how they do it, I don't know,  
19 I'm not -- I'm in the real estate business and  
20 involved with mortgages and development and that  
21 kind of thing. Running a restaurant, I don't do  
22 that. So, I mean, and I'm not trying to not

1    answer your question but I don't know. Okay? My  
2    one suggestion which I made in 2013 was to put  
3    that barrier up instead of the daggone chain link  
4    fence because I was smart enough to know that  
5    rats climb and if you put a ladder, they're going  
6    climb onto the ladder and jump, because they're  
7    always afraid. So, they jump, they climb, they  
8    scurry, they seek refuge, and that's exactly what  
9    was done. So, I came home one day and then I  
10   hear people grinding and putting up this fence  
11   and next thing you know everything -- there was  
12   more and more rats in my yard.

13           CHAIRPERSON ANDERSON: So, when was this  
14   chain link fence, do you know?

15           MR. DANSBY: It must have been in the fall of  
16   2013.

17           CHAIRPERSON ANDERSON: All right. I don't  
18   have any other questions. Yes, Mr. Alberti?

19           MR. ALBERTI: So, Mr. Dansby, I'm going to go  
20   back to the original question that Chairman  
21   Anderson had which was you said that you  
22   supported many of the proposals that had been

1 floated --

2 MR. DANSBY: Yeah.

3 MR. ALBERTI: -- in discussions with the ANC  
4 and others. Is that correct?

5 MR. DANSBY: Yes, sir.

6 MR. ALBERTI: What are those proposals? You  
7 never got to those, so --

8 MR. DANSBY: Well, the main one that I heard  
9 that made a lot of sense to me was storing the  
10 trash inside. Because during the summer it's  
11 just really the worst. Obviously, it's not great  
12 in the winter but during the summer months the  
13 stench is just incredible. So, that's the one  
14 that made sense to me. I can't list them all.

15 MR. ALBERTI: You don't have any other ones  
16 that you want to mention?

17 MR. DANSBY: Well, I mean, one of them they  
18 did do, and like I say I don't know for sure,  
19 but, you know, they have moved, because when I  
20 first started, when they first came over there  
21 was one trash pickup, so we all agreed that  
22 they're at least doing one in the morning for the

1 garbage and then one in the mid morning for the  
2 recyclables. All right? I will say that I see  
3 that probably every day. All right? I'm not here  
4 to call anyone a liar. I'm just telling you what  
5 I see, all right? And I see that. I see one in  
6 the morning. We asked them to -- because at  
7 first they were coming like at the crack of dawn  
8 and they were waking my kid up. He was like,  
9 'Daddy, I can't sleep.' I'm like 'now I can't  
10 sleep because this trash truck, and these guys  
11 are loud and they're slamming things down, I'm  
12 like, 'my kid can't even sleep', so I have to  
13 commend them, they did change that hour and it  
14 made a big difference and then they started doing  
15 the recycling in the mid morning. I've seen that  
16 with my two eyes. I commend them for doing that,  
17 so I'm not here to poke anybody in the eye or jam  
18 anybody up. But I can tell you that's what I  
19 saw. I can't tell you something and I'm not  
20 going to agree to something that I don't see, but  
21 I will agree to something that I did see because  
22 it's the truth.

1 MR. ALBERTI: Thank you.

2 MR. DANSBY: Thank you, sir.

3 CHAIRPERSON ANDERSON: Ms. Miller?

4 MS. MILLER: Thank you. I certainly feel  
5 your pain and I think a lot of who have  
6 neighbors and friends or whatever can relate to a  
7 certain extent, but your situation sounds  
8 particularly unpleasant. I wanted to talk to you  
9 about solutions. Can you tell us, did you get  
10 any type of proposed solutions from the  
11 department of health?

12 MR. DANSBY: They came out and they -- on a  
13 number of occasions, a gentleman named Gerard  
14 Brown, a really nice guy. We had him do -- I  
15 don't know what that chemical is. Our neighbor  
16 at 310 had a very acute problem, he's about 85  
17 years old and so I was able to kind of parlay  
18 with Mr. Brown to let him go into Mr. Walter  
19 Koresh at 310 C Street to do whatever that powder  
20 is they put, because they have basically -- his  
21 back yard looked like a bomb had been dropped in  
22 it, there were so many burrow holes in there. So

1 they were leaving the canister area and basically  
2 seeking refuge in his yard because they had easy  
3 access to the yard, all right? So it was a place  
4 of refuge because no one would go back -- he  
5 hadn't been back there in years, so they could  
6 easily, you know, basically warehouse and tunnel  
7 down there and live there. So, that was one of  
8 the main -- he did that for -- he probably came  
9 every Tuesday or Wednesday for a month, a month  
10 of Wednesdays, and then periodically as the  
11 rodents came back. Because from what I  
12 understand there's a hole tunnel network in and  
13 behind, between C Street and Pennsylvania Avenue,  
14 that's what he told me. And so it wasn't like a  
15 one-time thing where you come a few days and you  
16 knock it out. So, what else? That was the main  
17 thing with them. And like I said, most of the  
18 time I've been trying to work through the  
19 channels with ANC because they've been sort of  
20 representing us and they've certainly been  
21 getting more interaction with the restaurant  
22 owners than we as the neighbors have by



1 ourselves.

2 MS. MILLER: So, the smell that you are  
3 complaining about also, some of it was related to  
4 rats. Was some of it related to trash in  
5 general?

6 MR. DANSBY: Absolutely, yeah. I mean,  
7 absolutely.

8 MS. MILLER: So, you talked I thought at one  
9 point about a concrete wall.

10 MR. DANSBY: Right.

11 MS. MILLER: Was that a proposal you made to  
12 the applicant or what?

13 MR. DANSBY: Yeah, this was prior to them  
14 putting up the fence in 2013 and we got, you  
15 know, that was pushed back. I even had a  
16 contractor who was doing a retaining wall down  
17 the street and I said, 'hey I've got somebody  
18 who's willing to do it' and that got shot down  
19 and then, you know, that's when a few weeks later  
20 this chain link fence went up.

21 MS. MILLER: Have you thought about a  
22 retaining wall on your side?

1           MR. DANSBY: Well, there's really not enough  
2 room, because then it would throw the symmetry of  
3 my back yard off, and so I'd be building a  
4 retaining wall on my property and then basically  
5 it would -- I'd basically be giving away space  
6 when there's really -- it should actually be  
7 built in a neutral area, or the people who have a  
8 commercial operation, you know, I mean the  
9 nuisance is not coming from me, the nuisance is  
10 on the other side of the fence.

11          MS. MILLER: I understand that. I do, I  
12 understand that. Do you think that would be a  
13 solution to your problems?

14          MR. DANSBY: I think it would help because it  
15 would create a prophylactic situation on that  
16 side of the fence. That was my initial -- my  
17 initial recommendation because at least it would  
18 create some sort of containment and then when you  
19 couple that with the indoor storage, at least you  
20 -- because what happens is you still have, you  
21 know, I mean it only takes a little space as long  
22 as they can go have dinner and lunch and then go

1 seek refuge every night, you know, that's what  
2 they're going to do.

3 MS. MILLER: Did you recommend that to the  
4 applicant?

5 MR. DANSBY: Yes. This is -- yes.

6 MS. MILLER: And what was your recollection  
7 of why they didn't do it?

8 MR. DANSBY: Well, I think there was the  
9 question of cost was thrown out as I recall.

10 MS. MILLER: Okay, and would it help you if  
11 trash was located further away from your yard?

12 MR. DANSBY: Yeah, I mean, I've also  
13 recommended to the ANC that a curb be put up,  
14 okay? If you can't put a wall up at least move  
15 the cans off of my fence because over time my  
16 fence is going to keep moving, it's like if you  
17 keep shaking something it's just going to -- the  
18 structural integrity of my fence is going down  
19 every day. So, I've also recommended to the ANC  
20 that a curb be put up, you know, and make sure so  
21 that when those trash bins go back in to that  
22 area that they don't have to bump up directly to

1 my home. You know, like I said, I can take this  
2 pen and I can touch a trash can. That's how  
3 close they are. So, but that would help a lot  
4 but it might be -- it might not be enough room in  
5 that corral that they have. So, what happens is  
6 the space is then -- it just keeps pushing  
7 towards us. So, I mean I haven't gone in and  
8 measured it but when those trash bins get pushed  
9 back in there, they're right back to my fence and  
10 I think there are some photos that show that.

11 MS. MILLER: Okay. Thank you.

12 MR. DANSBY: Thank you, ma'am.

13 CHAIRPERSON ANDERSON: Mr. Short?

14 MR. SHORT: I guess the question is  
15 fundamentally somebody needs to answer, when you  
16 moved there in 2004 you could enter that alley  
17 from 3rd Street?

18 MR. DANSBY: Yeah, because my --

19 MR. SHORT: Okay, that's good, I've heard  
20 your testimony.

21 MR. DANSBY: Yes, sir.

22 MR. SHORT: Now if that was public space then

1    how was it commandeered to make it private?  Only  
2    the city council can do that and I would -- if I  
3    were you the first thing I would do, I would be  
4    checking to find out how much of that public  
5    space was privatized and by whom.

6           MR. DANSBY:  Are you talking about the Co-C  
7    and --

8           MR. SHORT:  I'm talking about the alley where  
9    the -- somebody's backed up a dumpster against  
10   your fence that used to be an alley, correct?

11          MR. DANSBY:  I'm not sure.

12          MR. SHORT:  Okay, no more questions.

13          MR. DANSBY:  That question has been kind of  
14   going around and around, who's on first with that  
15   space.

16          MR. SHORT:  If we don't know that then we'll  
17   never go anywhere.

18          MR. DANSBY:  Okay.

19          MR. SHORT:  If that's public space and it's  
20   been commandeered then -- is that public space?

21          MR. JAYARAMAN:  No, sir.

22          MR. SHORT:  Okay, well I don't have anymore

1 to say.

2 CHAIRPERSON ANDERSON: Mr. Silverstein, do  
3 you have any questions?

4 MR. SILVERSTEIN: No.

5 CHAIRPERSON ANDERSON: Mr. Kline?

6 MR. KLINE: Mr. Dansby, you said the issue  
7 with the wall was the cost, correct?

8 MR. DANSBY: That's what I was told.

9 MR. KLINE: Isn't it a fact that the  
10 Mendelsohns agreed that they would pay a third,  
11 and you would pay a third and then there would be  
12 an effort to try and get the landlord of the BB &  
13 T property to pay for the other third? You were  
14 going to use them, is that true?

15 MR. DANSBY: Yeah, I don't know why I should  
16 have to pay for something that is not on my  
17 property. I mean, do you want to make my  
18 mortgage payment this month? I mean, why would  
19 someone pay for something that's not going to be  
20 on their property?

21 MR. KLINE: You've answered my question.  
22 Thank you.

1 MR. DANSBY: That seems silly.

2 CHAIRPERSON ANDERSON: Your witness, sir.

3 MR. JAYARAMAN: I don't have any additional  
4 questions.

5 CHAIRPERSON ANDERSON: Mr. Dansby you've been  
6 here all day. You are free to stay here until  
7 this is over, but you can run away if you want  
8 to.

9 MR. DANSBY: I'm going to, I'm going to  
10 support my neighbor.

11 CHAIRPERSON ANDERSON: Thank you for your  
12 testimony. Do you have any other witnesses, sir?

13 MR. JAYARAMAN: Yes, I'd like to call our --  
14 one more witness. Sylvia Csiffary.

15 CHAIRPERSON ANDERSON: Ms. Who? I didn't get  
16 her name, I'm sorry.

17 MR. JAYARAMAN: Sylvia Csiffary.

18 CHAIRPERSON ANDERSON: Csiffary. Ms.  
19 Csiffary, can you raise your right hand, please.  
20 Do you swear or affirm to tell the truth and  
21 nothing but the truth?

22 MS. CSIFFARY: Yes.

1 CHAIRPERSON ANDERSON: Thank you, have a  
2 seat.

3 MR. JAYARAMAN: First of all would you let us  
4 know where you -- your property is in proximity  
5 to both the external trash storage area as well  
6 as the establishments.

7 MS. CSIFFARY: Yes. My home is on the 200  
8 block of 3rd Street Southeast and my back yard  
9 abuts the alley which runs parallel to 3rd Street  
10 and that is the alley that is used by the three  
11 Mendelsohn restaurants for trash storage and  
12 removal.

13 CHAIRPERSON ANDERSON: Can you speak up, I  
14 can't hear you.

15 MS. CSIFFARY: Can you hear me now?

16 CHAIRPERSON ANDERSON: Yes.

17 MS. CSIFFARY: Okay. Should I repeat that?

18 CHAIRPERSON ANDERSON: No.

19 MS. CSIFFARY: Okay.

20 MR. JAYARAMAN: I really want to get to some  
21 potential solutions and I want to get your  
22 opinion on did you attend an event called Rat



1 Riddance that the mayor held over on Barracks  
2 Row?

3 MS. CSIFFARY: Yes, I did.

4 MR. JAYARAMAN: Okay. During that walk did  
5 you have an opportunity to view and to gain a  
6 better understanding of some of the strategies  
7 that establishments on that 400 to 500, to 300  
8 block of 8th Street have been utilizing to  
9 address this? Address the trash and rodent  
10 problem?

11 MS. CSIFFARY: Yes, I did. We --

12 MR. JAYARAMAN: Could you tell us one example  
13 of one of the strategies that one of these  
14 businesses is using?

15 MS. CSIFFARY: Yes, I think it's a very good  
16 use of space in a crowded area which is Capitol  
17 Hill. The restaurant is called Eat Bar and it is  
18 along 8th Street, fairly close to Pennsylvania  
19 and what the -- I think it's -- I don't know if  
20 it's the restaurant management or it's the owner  
21 of the property -- have actually made use of the  
22 former coal chute. So, there are some places in

1 the old part of the city that have blocked off  
2 the coal chutes. You see restaurants that have  
3 these access to their basement areas, they'll --  
4 anyway, so Eat Bar has done that. I don't know  
5 if they had to excavate or if it was already  
6 there and available but they were able to keep  
7 their trash enclosed and underground and they  
8 have something like a dumbwaiter arrangement  
9 whereby they could actually lift that bin up into  
10 the sidewalk. They were like hurricane shutters  
11 or something right flush to the sidewalk, they'd  
12 open those up and the bin would be lifted using  
13 some kind of dumbwaiter mechanism and it would be  
14 removed that way.

15 MR. JAYARAMAN: Is there another  
16 establishment that has agreed to utilize the  
17 indoor trash storage that you know of?

18 MS. CSIFFARY: Yes --

19 MR. KLINE: I'm going to object on the  
20 grounds of relevance. The issue is what's  
21 reasonable in terms of measures. What people  
22 have agreed to, I don't see how that's relevant.

1           MR. JAYARAMAN: We're trying to provide  
2     examples of what reasonable measures other  
3     establishments have taken to address this same  
4     identical issue regarding heavily, densely  
5     commercial restaurant areas which abut  
6     residential properties. It relates directly to  
7     this.

8           CHAIRPERSON ANDERSON: Well, why don't you  
9     rephrase the questions and ask her what type of  
10    measures -- what is it that she's recommending  
11    that the specific establishments do to address  
12    the issue. I think rather than -- she can say,  
13    'well what about indoor, outdoor,' she can give  
14    the examples from that perspective, so apply  
15    whatever she knows to this establishment.

16          MR. JAYARAMAN: Are you aware that & Pizza  
17    has -- is constructing an indoor trash room?

18          MS. CSIFFARY: I heard that, yes.

19          MR. JAYARAMAN: Okay. Do you know that some  
20    of these establishments have also utilized an  
21    indoor compactor to be able to store trash?

22          MS. CSIFFARY: Yes, I'm familiar with that.

1 District Taco that was mentioned in earlier  
2 testimony, yes.

3 MR. JAYARAMAN: Have they -- have you  
4 received any information that that has  
5 significantly addressed the rodent problems that  
6 they used to face or significantly reduced them?

7 MS. CSIFFARY: I have heard that. I  
8 interviewed the manager of Peregrine Coffee and I  
9 asked him what his experience was. I was  
10 interested in particular in composting and what  
11 that might do for us and so he was the one who  
12 told me about their interior trash and their  
13 compactor.

14 MR. JAYARAMAN: Okay. So, applying to this  
15 situation, you know, do you support the fact that  
16 they have this cooler that they're using  
17 partially to store trash?

18 MS. CSIFFARY: Yes, I think that it is an  
19 improvement.

20 MR. JAYARAMAN: So, yes. What about the  
21 exterior trash storage area? Do you think that's  
22 serving -- working as well as this cooled trash

1 storage cooler?

2 MS. CSIFFARY: It's inconsistent and this is  
3 my concern. I think that there have been  
4 improvements and I would compliment him. I was  
5 the one who complimented Mr. Renninger in an e-  
6 mail. I think that he has made a big difference  
7 in the way things are being managed; however, my  
8 issue at this point is the consistency of the  
9 performance and I have spent enough time  
10 documenting the problems that frequently occur.  
11 I haven't done a statistical study but my back  
12 yard abuts on the alley and my kitchen window  
13 overlooks the dumpster area, so when I hear a  
14 noise in the alley I usually pop out and take a  
15 look and see what's happening there. So, I see  
16 the problems that accrue.

17 MR. JAYARAMAN: I want to touch a little bit  
18 on our exhibit #2. Would you confirm that most  
19 of the pictures --

20 CHAIRPERSON ANDERSON: What I need you to do,  
21 sir, I need you to pull exhibit #2, I need you to  
22 show it to her, show it to Mr. Kline, show it to

1 her and ask her to identify it and then you can  
2 start from that perspective, okay?

3 MR. JAYARAMAN: Would you look through these  
4 pictures and estimate how many of these pictures  
5 are what you 've taken?

6 CHAIRPERSON ANDERSON: What pictures. Where  
7 are we starting from?

8 MR. JAYARAMAN: Okay, we're going to start  
9 with page #1 of 13.

10 CHAIRPERSON ANDERSON: So, what I need you to  
11 do is to go through all the documents and have  
12 her identify, if she can, what it is, okay? I'm  
13 not being -- that's just the way we're -- you see  
14 Mr. Kline did it that way too, so that's what you  
15 need to do.

16 MR. JAYARAMAN: Sylvia: Would you identify  
17 what's in this picture and what the date is below  
18 that?

19 MS. CSIFFARY: That top picture is dated  
20 September the 6th of 2016 and it is a dumpster  
21 with overflowing recycling material and other  
22 related trash that is blocking my patio gate. It

1 is located in the alley behind our house.

2 MR. JAYARAMAN: Was this picture taken by  
3 you?

4 MS. CSIFFARY: Yes, it was.

5 MR. JAYARAMAN: Page #2, would you describe  
6 the top picture and the date directly below it?

7 MS. CSIFFARY: That is a picture I took on  
8 the 6th of July and it is of the used grease  
9 container that is with an open lid and a rat.  
10 The rat and I were both surprised when we saw  
11 each other but I was able to manage to take a  
12 photograph of it despite that and it was feasting  
13 on the used grease. And that dumpster is located  
14 in the public alley directly behind Bernaise.

15 MR. JAYARAMAN: The next picture would you  
16 please describe what you see and the date and  
17 time that are on it.

18 MS. CSIFFARY: This is a photograph I took on  
19 the 21st of June at 9:57 in the morning and it is  
20 representing --

21 CHAIRPERSON ANDERSON: I'm sorry, what --

22 MS. CSIFFARY: -- a recycling dumpster.

1 CHAIRPERSON ANDERSON: -- what document is  
2 she referring to?

3 MR. JAYARAMAN: It's the second picture on  
4 page #2 of exhibit #2.

5 CHAIRPERSON ANDERSON: Oh, okay so June, you  
6 said June 22nd, so.

7 MS. CSIFFARY: 21st.

8 CHAIRPERSON ANDERSON: So, that's why I was  
9 confused. I don't see a document that says June  
10 22nd, so --

11 MS. CSIFFARY: Excuse me.

12 CHAIRPERSON ANDERSON: All right, go ahead.

13 MS. CSIFFARY: So, this is a dumpster that is  
14 overloaded with recyclables and it is located in  
15 that photograph in what we call the dumpster park  
16 area behind BB & T building.

17 MR. JAYARAMAN: If you could describe the  
18 bottom picture and the date that's listed on the  
19 bottom of page #3.

20 MS. CSIFFARY: This is a photograph I believe  
21 I took on the 1st of May of 2016. It is a  
22 photograph of the stains that coat the alley



1 surface and the wood that is holding a part of  
2 that used grease bin.

3 MR. JAYARAMAN: Could you please describe on  
4 the picture on page #4 and confirm what you see  
5 in the picture?

6 MS. CSIFFARY: The top picture I took on the  
7 4th of April of 2016 -- I'm sorry, the 6th of  
8 April of 2016, and it represents overflow of  
9 trash and recycling and trash on the alley  
10 surface and that is the BB & T area, the exterior  
11 storage.

12 MR. JAYARAMAN: Okay we're now -- move to  
13 page #7 of exhibit #2. Would you please describe  
14 what you see here in the top picture?

15 MS. CSIFFARY: The top picture, it says  
16 February 2016, I'm sorry I don't have the day,  
17 but it represents what looks like garbage in  
18 overloaded bins in the BB & T storage area.

19 MR. JAYARAMAN: And the bottom picture?

20 MS. CSIFFARY: The bottom picture I believe I  
21 took on the 27th of February of 2016 and it shows  
22 that the grease bin has been left open and

1   there's a restaurant chair standing on the side  
2   of it and there's grease over the top of the bin.

3           CHAIRPERSON ANDERSON:   I'm sorry, what number  
4   was she referring to?

5           MR. JAYARAMAN:   Page #7.   The picture on page  
6   #7, sir.

7           CHAIRPERSON ANDERSON:   All right, go ahead.

8           MR. JAYARAMAN:   And we are moved to page #9,  
9   both pictures, would you please describe the top  
10   picture and the bottom picture and the dates that  
11   were -- the month and date that are on these.

12          MS. CSIFFARY:   These two photographs I took  
13   in January of 2016 and both of them represent  
14   garbage overloaded in the bins which are parked  
15   behind the BB & T building.

16          MR. JAYARAMAN:   And what month was that?

17          MS. CSIFFARY:   That's January of 2016.

18          MR. JAYARAMAN:   Do you recall that the  
19   applicant testified that that's their low time?

20          MS. CSIFFARY:   I think I heard that, yes.

21          MR. JAYARAMAN:   Would you describe what you  
22   see in the lower picture, please.

1 MS. CSIFFARY: Pictures of -- let's see --  
2 they look like there are four bins. All of them  
3 are overloaded to almost a yard high with garbage  
4 bags and there's trash on the surface, a pizza  
5 box and looks like some sort of noxious liquid on  
6 the surface.

7 CHAIRPERSON ANDERSON: I'm sorry what  
8 document? I'm sorry, what was the date on that  
9 document again? I'm sorry, what page was that  
10 on?

11 MS. CSIFFARY: That's January the 16th of  
12 2016, page #9 of 13.

13 MR. JAYARAMAN: We'll move on to page #10 of  
14 13. The top picture. Can you tell me what date  
15 is listed on there and what you see?

16 MS. CSIFFARY: The date of that photograph is  
17 November the 22nd of 2015. I took this picture  
18 from my kitchen window and it shows the open gate  
19 that faces onto the BB & T space. It shows  
20 debris and some kind of milky liquid around the  
21 grill of the French drain. The picture at the  
22 bottom is dated November the 22nd of 2015 and it

1 shows bins that are overloaded about a yard high  
2 with garbage and one of the bags is actually  
3 hanging over the edge.

4 MR. JAYARAMAN: And now we move to Page #11.  
5 Would you please describe the top picture and the  
6 caption on it.

7 MS. CSIFFARY: I took this photograph on the  
8 11th of October of last year and I captioned it  
9 Mendelsohn dumpsters behind 317 Pennsylvania  
10 Avenue Southeast, which is the BB & T building,  
11 and it's at the top of the alley and it  
12 represents garbage which is overloading all the  
13 dumpsters.

14 MR. JAYARAMAN: Would you describe the bottom  
15 picture on page #11 please?

16 MS. CSIFFARY: This is dated October the 6th  
17 of 2015 and it shows trash and debris scattered  
18 all over the surface of the dumpster storage  
19 area.

20 MR. JAYARAMAN: And then we've moved on to  
21 page #14, would you please describe -- I'm sorry,  
22 page #12 -- would you please describe the top

1 picture as well as the date and what the caption  
2 says?

3 MS. CSIFFARY: Yes. I took this picture on  
4 the 5th of July of 2015 and I called it  
5 Mendelsohn dumpsters etc. at 3rd and C alley, and  
6 it shows overloaded dumpsters that are filled  
7 with garbage and recyclables that have been  
8 tossed up against my back yard fence and there's  
9 other -- I guess that's what Mr. Renninger called  
10 the dough bins that are stacked on the surface of  
11 the public alley.

12 MR. JAYARAMAN: And would you please describe  
13 again the picture on the bottom of page #12 of  
14 13?

15 MS. CSIFFARY: This photograph I took from my  
16 kitchen window on the 6th of June of 2015. The  
17 caption reads Mendelsohn dumpsters at 3rd and C  
18 Southeast alley, and it shows a couple of  
19 problems: Overloaded garbage bins left with lids  
20 up, that milky liquid around the French drain and  
21 a couple -- three, I believe three, dumpsters  
22 that have been parked in the public alley against

1 my back yard fence.

2 MR. JAYARAMAN: Thank you so much. What does  
3 this tell you about their commitment to effective  
4 trash management?

5 MS. CSIFFARY: Well, it's a difficult  
6 question for me to answer without a lot of  
7 passion. I've been documenting this problem  
8 since 2011 and I would say that they're, since  
9 John Renninger has come aboard, and what was the  
10 date that the application --

11 CHAIRPERSON ANDERSON: You can't ask him a  
12 question, ma'am.

13 MS. CSIFFARY: I'm sorry, I'm sorry.

14 CHAIRPERSON ANDERSON: You cannot ask him a  
15 question.

16 MS. CSIFFARY: Well, I would say that it was  
17 very, very poor initially when the restaurants  
18 first came into the area. It was very poor. But  
19 I would say, honestly, that toward this very last  
20 few months that there has been a change since  
21 that cooling shed came in, but it's inconsistent  
22 and that's my major complaint at this point.

1 It's inconsistent.

2 MR. JAYARAMAN: Do you recall in 2013 when  
3 they came up for renewal, were you experiencing  
4 these same kinds of issues before they applied  
5 for their liquor license renewal?

6 MS. CSIFFARY: Yes. Yes, Mm hmm.

7 MR. JAYARAMAN: Was there improvement around  
8 that time when they applied for renewal of this  
9 liquor license?

10 CHAIRPERSON ANDERSON: Okay, we're back on  
11 the record.

12 MR. JAYARAMAN: Do you recall whether similar  
13 types of efforts and improvements occurred just  
14 prior to the last renewal of their liquor  
15 license?

16 MS. CSIFFARY: Well, to be fair, I was very  
17 hopeful, but there were -- in my opinion there  
18 were a lot of good wishes expressed but I really  
19 didn't see the evidence of any -- very many of  
20 those things being put effectively into -- into  
21 practice.

22 MR. JAYARAMAN: And so what happened after

1 the renewal was supported and accepted?

2 MS. CSIFFARY: I would say the business has  
3 flourished and that meant there was a large  
4 amount of trash and garbage that was generated as  
5 a result.

6 MR. JAYARAMAN: Does that give you pause or  
7 reservations about what might happen if no  
8 stipulations are added to the license at this  
9 juncture?

10 MS. CSIFFARY: It does concern me, somewhat,  
11 yes.

12 MR. JAYARAMAN: What are some -- we've talked  
13 about some of the places that you've been to.  
14 Are there any of those strategies, such as  
15 storing the grease inside, or indoor trash  
16 storage -- any of those that would be applicable  
17 in this situation?

18 MS. CSIFFARY: It's -- it's not really  
19 possible for me to say without lots of  
20 qualification since I'm not expert in any of this  
21 area. I would ideally -- I could say ideally --  
22 that interior grease storage would be my number



1 one priority. If there were to be some large  
2 investment made. For a couple of reasons. One,  
3 at this time that bin is in a public space and it  
4 shouldn't be and the other is that if this were  
5 in an interior area, the -- I believe that the  
6 tendency would be to tend to keep it cleaner. I  
7 can't prove that, it's just an opinion.

8 MR. JAYARAMAN: Thank you. Do you believe  
9 that the grinding of food is required -- would  
10 reduce the amount of food garbage that goes into  
11 the trash cans?

12 MS. CSIFFARY: Definitely.

13 MR. KLINE: Objection. It's irrelevant.

14 CHAIRPERSON ANDERSON: I didn't get a chance  
15 to even respond before she answered.

16 MR. KLINE: I'll withdraw it.

17 CHAIRPERSON ANDERSON: All right, go ahead.

18 MR. JAYARAMAN: Are there any other comments  
19 you'd like to make about how -- or any  
20 recommendations you have about working together  
21 or -- with the applicant to resolve the trash  
22 management issue that you regularly face?

1 MS. CSIFFARY: I would like to ask that it be  
2 considered -- a trash compactor would possibly be  
3 brought in in order to reduce the volume, but I  
4 think that a food grinder -- that regular use of  
5 a food grinder would be very, very useful because  
6 it is a well-known fact that rats will come when  
7 they have food, water and harbor, and so if you  
8 remove those three elements you're going to get  
9 rid of your rats. So, reducing those three  
10 elements, the availability of them, would  
11 definitely be a good thing and if a food grinder  
12 would facilitate that, I'd say yes, please.

13 MR. JAYARAMAN: With respect to the compactor  
14 are you talking about a compactor for the  
15 recyclables or for garbage as well?

16 MS. CSIFFARY: The research that I have done  
17 indicates that there's not enough room in the  
18 alley for a compactor that would accommodate all  
19 of the garbage, but there might be one for  
20 recycling, I don't know.

21 MR. JAYARAMAN: Now, it's been brought up  
22 that there were objections from the community

1 about a compactor. What would be the difference  
2 if a compactor was utilized for recyclables?

3 MS. CSIFFARY: One of the ideas is that there  
4 would -- you could control the scheduling of the  
5 recycling with greater ease because there would  
6 be a link-up with maybe the delivery of goods  
7 that came stored in a box, so --

8 MR. JAYARAMAN: And you're saying that would  
9 have a lesser impact on disturbing the  
10 residential neighborhood?

11 MS. CSIFFARY: Yes. And if I may make a  
12 comment about this noise issue. We were relying  
13 -- I mean the neighbors -- were relying on the  
14 good advice of an activist who's been working on  
15 this problem in Barracks Row and she is an  
16 attorney and has been working with the Barracks  
17 Row community for a long time as a resident  
18 nearby, and since I'm not an expert in any of  
19 these areas, her advice and her experience was  
20 something that was very helpful to us, and it was  
21 her suggestion that a compactor would be too  
22 noisy for the neighbors, but to tell you the

1 truth, I don't remember the neighbors pitching in  
2 because we don't know.

3 MR. JAYARAMAN: That's all the questions I  
4 have.

5 CHAIRPERSON ANDERSON: Mr. Klin?

6 MR. KLINE: Good evening, Ms. Csiffary.

7 MS. CSIFFARY: Good evening, Mr. Kline.

8 MR. KLINE: Isn't it true that the  
9 construction of the refrigerated trash room has  
10 helped dramatically in terms of the problems with  
11 trash management back in the alley?

12 MS. CSIFFARY: There has been an improvement.

13 MR. JAYARAMAN: And you suggested, 'well,  
14 gee, they're just doing this for renewal,' you  
15 don't think they're going to tear that trash room  
16 down after, if and when this license is approved  
17 for reissuance, do you?

18 MS. CSIFFARY: That didn't enter my mind, no.

19 MR. KLINE: Okay.

20 MS. CSIFFARY: No.

21 MR. KLINE: That would be kind of silly,  
22 wouldn't it?

1 MS. CSIFFARY: As I say, it did not enter my  
2 mind.

3 MR. KLINE: So, the suggestion that they're  
4 somehow going to backslide and not keep doing  
5 what they're doing, you'd expect that they'd  
6 maintain the refrigerated trash room, correct?

7 MS. CSIFFARY: It's not the trash room, but  
8 what doesn't fit into the trash room which is the  
9 problem.

10 MR. KLINE: But the trash room has, indeed,  
11 increased the capacity of storage of solid waste,  
12 hasn't it?

13 MS. CSIFFARY: Apparently so.

14 MR. KLINE: All right. And, in fact, in May  
15 -- and you testified to this, and I think it's  
16 clear -- in May you commended them for the  
17 efforts that they've made and that they were  
18 doing a good job and that the alley looked  
19 cleaner than it had ever looked, correct?

20 MS. CSIFFARY: I did. I wanted to reach out  
21 to John Renninger because he had just come aboard  
22 and I wanted to make a gesture of good will, yes.

1           MR. KLINE: And John made it clear to you, as  
2 the rest of the neighborhood, that the buck stops  
3 with him, that he would -- he gave you his  
4 telephone number and e-mail address and, indeed  
5 you had it because you e-mailed him, and told you  
6 if there were any issues to contact him, correct?

7           MS. CSIFFARY: Well, yes, on the face of it.  
8 But --

9           MR. KLINE: You've answered the question.

10          MS. CSIFFARY: Yeah.

11          MR. KLINE: So, on March 7th of 2016, did you  
12 contact Mr. Renninger? When you took one of your  
13 photos? The one on page #6?

14          MS. CSIFFARY: Of 2016?

15          MR. KLINE: Of 2016.

16          MS. CSIFFARY: I'm sorry. I don't know.

17          MR. KLINE: Did you contact him on April 6,  
18 2016?

19          MS. CSIFFARY: No.

20          MR. KLINE: Did you contact him on May 1st,  
21 2016?

22          MS. CSIFFARY: No.

1           MR. KLINE: Did you contact him on July 6,  
2   2016?

3           MS. CSIFFARY: No.

4           MR. KLINE: Did you contact him at any time  
5   when you observed these conditions or did you  
6   just take pictures?

7           MS. CSIFFARY: I am relying on the District  
8   government offices to enforce the regulations and  
9   since these violations are so egregious I can't  
10   see why it would be necessary to document them  
11   for the person who's responsible for trash  
12   management. It's very clear that these dumpsters  
13   are overloaded. So what is the point of sending  
14   a picture? This is the person's job.

15          MR. KLINE: Right, but couldn't you have  
16   picked up the phone and said, 'John, the alley's  
17   mess, what's going on? Would you clean it up?'  
18   Wouldn't that be the cooperative and neighborly  
19   thing to do in a situation like that?

20          MS. CSIFFARY: Well, it really depends,  
21   doesn't it? I don't know how to answer your  
22   question, I'm sorry.

1           MR. KLINE: So, you didn't think in the  
2 spirit of cooperation that it would be  
3 appropriate to call the establishment and point  
4 out that there was perhaps a problem in the alley  
5 on a particular day?

6           MR. JAYARAMAN: Objection, your honor.

7           CHAIRPERSON ANDERSON: What's the nature of  
8 your objection?

9           MR. JAYARAMAN: This same line of questioning  
10 has been asked of three different witnesses and  
11 provided the same answer so it appears to be  
12 bordering on badgering at this point.

13          CHAIRPERSON ANDERSON: The objection is  
14 sustained, asked and answered. I think she  
15 stated that, so let's move on.

16          MR. KLINE: All right, now you talked about  
17 Eat Bar as a model to look at in terms of how  
18 they manage their trash, correct?

19          MS. CSIFFARY: No, not as a model. What I  
20 said was that I witnessed that they are using  
21 this. I don't know how successfully, but I saw  
22 the thing there, yes.



1 MR. KLINE: Okay, that was a newly  
2 constructed restaurant, wasn't it?

3 MS. CSIFFARY: No, it was an ancient  
4 restaurant. It's an ancient building.

5 MR. KLINE: It's an ancient building --

6 MS. CSIFFARY: Yes.

7 MR. KLINE: -- but there were substantial  
8 renovations on -- in connection with opening that  
9 restaurant.

10 MS. CSIFFARY: I don't know. I do not know.

11 MR. KLINE: Isn't it in your neighborhood?

12 MS. CSIFFARY: Yes. Not really. I mean,  
13 it's five blocks away so.

14 MR. KLINE: And & Pizza, isn't it true that  
15 that was also a new restaurant?

16 MS. CSIFFARY: Yes.

17 MR. KLINE: Okay. And District Taco is in  
18 the bottom of an office building, isn't it?

19 MS. CSIFFARY: It's a multi-use building.

20 MR. KLINE: And the trash facilities are  
21 shared by seven or eight restaurants in that  
22 facility, aren't they?

1 MS. CSIFFARY: It's shared by the entire  
2 building.

3 MR. KLINE: By the entire building.

4 MS. CSIFFARY: Yes. That was my  
5 understanding from my interview with Jeremy.

6 MR. KLINE: Okay, and this establishment  
7 doesn't have, or these three establishments don't  
8 have entire buildings with other tenants and  
9 office tenants that would be able to share in an  
10 indoor trash facility, do they?

11 MS. CSIFFARY: I don't think the sharing is  
12 the issue. It's the desire to do the right thing  
13 in the right place.

14 MR. KLINE: All right. And with the hiring  
15 of Mr. Renninger and the steps that they've  
16 taken, is it your position that these three  
17 establishments do not strive to do the right  
18 thing?

19 MS. CSIFFARY: No, that's not what I would  
20 say.

21 MR. KLINE: Okay.

22 MS. CSIFFARY: But may I mention something

1 about informal chats with Mr. Renninger? I don't  
2 even have it down in my --

3 MR. KLINE: I think you've answered my  
4 question.

5 MS. CSIFFARY: I have? Okay. It's about the  
6 bleach flowing into my back yard.

7 CHAIRPERSON ANDERSON: There's no pending  
8 question.

9 MR. KLINE: All right, haven't you also --  
10 you've met with Ms. Mendelsohn several times --

11 MS. CSIFFARY: Yes.

12 MR. KLINE: -- regarding these issues.

13 MS. CSIFFARY: Yes, yes, that's true, since  
14 2013.

15 MR. KLINE: 2013.

16 MS. CSIFFARY: Yes.

17 MR. KLINE: And, fact, you were here for her  
18 testimony earlier in terms of all the measures  
19 that have been taken since 2013, correct?

20 MS. CSIFFARY: Yes. Her claims of all those  
21 things, yes, that's true.

22 MR. KLINE: Do you dispute that those were

1 done?

2 MS. CSIFFARY: No, I'm not disputing that  
3 they were done, I am disputing who suggested  
4 doing some of those things.

5 MR. KLINE: Okay, but the fact of the matter  
6 is you don't dispute that they were done,  
7 correct. And, Mr. Jayaraman, it's not  
8 appropriate for you to coach the witness with  
9 head nods and I would ask the chair to admonish  
10 the representative not to do that when I have a  
11 witness on the stand cross examining?

12 CHAIRPERSON ANDERSON: I haven't noticed it,  
13 but Mr. Jayaraman, if that's what you --

14 MR. JAYARAMAN: Noted, thank you.

15 CHAIRPERSON ANDERSON: I mean, you're noted  
16 that please do not do that, but I have not  
17 noticed it, so all right.

18 MR. KLINE: So, you don't dispute that those  
19 measures were taken, correct?

20 MS. CSIFFARY: Can I give you one example of  
21 a problem?

22 MR. KLINE: Well, no I'm asking you whether

1   you dispute that the measures that Ms. Mendelsohn  
2   testified to with respect to tackling the trash  
3   problem, do you dispute that those measures were  
4   taken?

5           MS. CSIFFARY: I do dispute some of them,  
6   yes.

7           MR. KLINE: Which ones do dispute? What is  
8   it that you say that she testified that they did  
9   that they didn't do?

10          MS. CSIFFARY: I have notes if I could have a  
11   minute to look at them?

12          MR. KLINE: Sure.

13          MS. CSIFFARY: Yeah. There was one that was  
14   quite public and that had to do with cleaning.  
15   The used grease bin in February the 4th of 2015  
16   was still located behind the burger place, Good  
17   Stuff Eatery, and Good Stuff Eatery, the back  
18   patio abuts to the driveway which feeds out into  
19   3rd Street, so this is the driveway where the  
20   current Pret A Manger people keep two dumpsters  
21   and park their six cars. And what I noticed on  
22   the 4th of February of last year was that there

1 was a coat of grease that was -- that had coated  
2 the driveway from the dumpsters all the way down  
3 to 3rd Street, and I went into Pret A Manger  
4 because I thought that they had done something,  
5 and they said it wasn't their grease and that --  
6 I think at that time I called Mich and reported  
7 to her that there had been a spill and she  
8 indicated that the biofuel company had caused a  
9 problem in the removal of that grease, but she  
10 offered to clean the space up, and so I think  
11 within a week she did that, and I want to point  
12 out, too, that there was a lot of grease because  
13 the serving lady at Pret A Manger told me that  
14 she nearly slipped and fell when she went to dump  
15 her garbage.

16 MR. KLINE: But that was corrected, right?

17 MS. CSIFFARY: I will be happy to tell you  
18 exactly what I saw, which is that within a week  
19 Mich did make an effort to clean up, but it was  
20 inadequate, there was still grease left there and  
21 I asked for that to be corrected all the way  
22 through April. What happened was that Darrell,

1    who was your manager at the time, was in  
2    Philadelphia and he said he would try to take  
3    care of things as soon as possible, but that  
4    didn't happen and then we had a blizzard. That  
5    was the blizzard.

6           MR. KLINE: We're in 2015 at this point,  
7    right?

8           MS. CSIFFARY: 2015, right.

9           MR. KLINE: Okay and since --

10          MS. CSIFFARY: So, that melted but the grease  
11    was still there, so even until the first of April  
12    when everything started to stink the problem was  
13    still there and I did not hear any more from  
14    Mich.

15          MR. KLINE: Okay. But that's 2015 we're  
16    talking about, right?

17          MS. CSIFFARY: Yes.

18          MR. KLINE: All right. Since October of  
19    2016, when these three establishments hired a  
20    director of operations --

21          MS. CSIFFARY: Yes.

22          MR. KLINE: -- that they had talked to the

1 community about doing, and they hired Mr.  
2 Renninger, that hasn't been an issue, has it?

3 MS. CSIFFARY: There has been spilled grease.  
4 I mean, there are exhibits that have -- that we  
5 have -- that I have identified.

6 MR. KLINE: Right, but isn't it promptly  
7 cleaned up?

8 MS. CSIFFARY: Maybe a week later.

9 MS. MENDELSON: No, that's not true, Sylvia.

10 CHAIRPERSON ANDERSON: I'm sorry -- I'm  
11 confused. When was Mr. Renninger hired?

12 MR. KLINE: In October of 2015.

13 CHAIRPERSON ANDERSON: Okay, 'cause you said  
14 2016, so that's why I'm confused.

15 MR. KLINE: Oh, I'm sorry.

16 CHAIRPERSON ANDERSON: All right, okay. Did  
17 I miss something back there? Was there an  
18 objection?

19 MR. KLINE: No.

20 CHAIRPERSON ANDERSON: Okay, all right, go  
21 ahead.

22 MR. KLINE: All right, I don't have any



1 further questions of the witness at this time.

2 CHAIRPERSON ANDERSON: Yes, Mr. Short?

3 MR. SHORT: I need to clarify. You were  
4 shown ANC 6B exhibit #2, page #2 of 13, with the  
5 date of July 6, 2016. Can you show that to her,  
6 please, sir? On the top.

7 MS. CSIFFARY: What is your question?

8 MR. SHORT: The question is was it your  
9 testimony that this grease storage bin was in a  
10 public alley?

11 MS. CSIFFARY: It is in a public alley.

12 MR. SHORT: It still is?

13 MS. CSIFFARY: Yes.

14 MR. SHORT: I have no further questions.

15 CHAIRPERSON ANDERSON: Are there any other  
16 questions by any other board members? Yes, Mr.  
17 Alberti?

18 MR. ALBERTI: Ms. Csiffary, you keep talking  
19 -- you say -- you said a couple times it's  
20 inconsistent when you're referring to the  
21 garbage, the trash. What do you mean? Can you  
22 elaborate on what you mean by that?

1 MS. CSIFFARY: Well, we're talking about  
2 trash management practices and the ideal is best  
3 management practices, I think that's the term of  
4 art for this kind of thing, and so when I say  
5 "it" that's what I'm talking about. Does this  
6 way of dealing with trash management meet best  
7 management practices for trash handling? It is  
8 inconsistent and the photographs that I submitted  
9 to Mr. Jayaraman are meant to demonstrate over a  
10 period of a year and a half that there are  
11 inconsistencies in the performance of that trash  
12 management.

13 MR. SHORT: Okay, thank you for that. Can  
14 you give me some sort of -- some sort of  
15 frequency of how often it's inconsistent.

16 MS. CSIFFARY: If I had known that that  
17 question would come about I would have reviewed  
18 the four years of photographs that I have in my  
19 archive on Facebook and I would have been giving  
20 you a correct number. I selected 38 photographs  
21 from the archive that I have of four years'  
22 length in order to demonstrate egregious problems

1 over time.

2 MR. SHORT: Okay, so since they hired Mr.  
3 Renninger --

4 MS. CSIFFARY: Yes.

5 MR. SHORT: -- can you give me your best  
6 guess as how often they fail to perform well with  
7 respect to the management of trash?

8 MS. CSIFFARY: Well, I would look at -- we  
9 can correlate that to the exhibits. That's why I  
10 brought the exhibits in.

11 MR. SHORT: No, I understand. Are these the  
12 only times? I mean, are there times when you  
13 witnessed it but didn't document it?

14 MS. CSIFFARY: Yes, it's quite possible. I  
15 just got tired of taking pictures of garbage,  
16 yes.

17 MR. SHORT: Okay. Thank you.

18 CHAIRPERSON ANDERSON: Ms. Miller do you have  
19 any questions?

20 MS. MILLER: No, thank you.

21 CHAIRPERSON ANDERSON: Mr. Silverstein? All  
22 right, Mr. Kline?

1 MR. KLINE: I don't have anything further.

2 CHAIRPERSON ANDERSON: Mr. Jayaraman?

3 MR. JAYARAMAN: Ms. Csiffary I'd like to --  
4 and I'm not sure if I can do this or not, but,  
5 you know, I would like to share with you -- if  
6 you would please review what this is and show the  
7 board what's on these. What these are.

8 CHAIRPERSON ANDERSON: What are you showing  
9 her?

10 MR. JAYARAMAN: Is that allowable?

11 CHAIRPERSON ANDERSON: I don't know what it  
12 is.

13 MR. JAYARAMAN: These are --

14 CHAIRPERSON ANDERSON: It can't be something  
15 you didn't show to Mr. Kline, it can't be new.  
16 If it's related to some questions that the board  
17 asked or Mr. Kline asked, sure, but if it's -- if  
18 you're opening up new ground you cannot open up  
19 new ground. Remember when I asked you before  
20 when you said you were done and I said 'make sure  
21 that you're done because you cannot create -- you  
22 cannot -- once you say you are done then you are

1 in defense, you can only react to questions that  
2 other folks ask, you can't ask new questions.'

3 MR. KLINE: I object to that document.

4 CHAIRPERSON ANDERSON: I need to -- I don't  
5 know what it is and I guess from what I'm hearing  
6 from you this is new ground, you're trying to  
7 cover something that was not covered before,  
8 right?

9 MR. JAYARAMAN: Well, these are -- I think in  
10 fact Mr. Short actually mentioned this before was  
11 that one of the recommendations that we have and  
12 all of these have been covered today and this is  
13 just a singular page in which they are all just  
14 listed.

15 MR. KLINE: It's a singular page that  
16 contains hearsay testimony that we have not seen  
17 before and it's a document that we haven't seen  
18 before at all, so if the intent was to use it, I  
19 mean there was an objection that he got exhibits  
20 a day late. It's 10:00 the day of the hearing  
21 and I'm seeing this for the first time.

22 CHAIRPERSON ANDERSON: Well, if it's their

1 recommendations, I mean in your closing then you  
2 can make reference -- you can tell the board what  
3 it is that you want the board to do. I mean I  
4 think that -- I mean they are different options,  
5 if they're recommendations, they're options. And  
6 if I remember correctly in your PIP you have  
7 asked the board to not renew their license or  
8 you said the alternative, so in your closing then  
9 you can tell -- make recommendations to the board  
10 what is it that you want the board to consider.  
11 If you have any other questions that are based on  
12 the questions that the board asked then you can  
13 follow up with those, but you cannot ask -- you  
14 cannot break new ground by asking new questions.

15 MR. JAYARAMAN: That's fine. I don't have  
16 any more questions for the witnesses, but I would  
17 like some assistance on how I incorporate these  
18 exhibits officially.

19 CHAIRPERSON ANDERSON: Now, the exhibits that  
20 Ms. -- I'm sorry, Ms?

21 MS. CSIFFARY: Csiffary.

22 CHAIRPERSON ANDERSON: -- Csiffary has -- you

1 can make a motion to have these documents a part  
2 of the -- I'm sorry -- entered into evidence.  
3 But, if -- those are the only documents that can  
4 be part of the evidence. If we have not had  
5 testimony on any other document then they cannot  
6 be. So, what you can do now is that you can ask  
7 me to -- let me know what documents that she had  
8 testified to and you can move to admit them to  
9 the -- into evidence. Of course, I'm going to  
10 ask Mr. Kline what his position is. He will  
11 state and then I'll make a ruling whether or not  
12 I will allow them in or not.

13 MR. JAYARAMAN: I would like to make a  
14 motion. I would like to move to incorporate all  
15 13 pages of the exhibits, titled Exhibit #2  
16 Pictures of Violations into the record as  
17 evidence.

18 CHAIRPERSON ANDERSON: Mr. Kline?

19 MR. KLINE: I do not object to the ones that  
20 Ms. Csiffary took or identified. I object to the  
21 ones that were not so identified.

22 CHAIRPERSON ANDERSON: And so therefore I do

1 not -- I know not all the documents were and so  
2 that's why I am not sure, so. Do you know, Mr.  
3 Kline, which one of the documents we had  
4 testimony on or not? Trying to keep track.

5 MR. KLINE: I believe, and I trust that Mr.  
6 Jayaraman will correct me if I'm wrong, but I  
7 believe that Ms. Csiffary testified that she took  
8 #1, exhibit #1, the photo #1, the two photos in  
9 #2, the two photos on page #4.

10 MR. JAYARAMAN: I believe she testified to  
11 #3.

12 CHAIRPERSON ANDERSON: She did, she testified  
13 to #3.

14 MR. KLINE: You're right, she testified on  
15 that one.

16 CHAIRPERSON ANDERSON: Yeah.

17 MR. JAYARAMAN: Mr. Renninger testified on  
18 page #5.

19 CHAIRPERSON ANDERSON: What about page #4?

20 MR. KLINE: You didn't identify page #5.

21 MR. ALBERTI: Ms. Csiffary didn't identify  
22 the first exhibit, we don't have foundation.



1 CHAIRPERSON ANDERSON: So, we have page #1,  
2 page #2, page #3, page #4.

3 MR. KLINE: Page #4, I do not believe was  
4 identified. There was discussion about it.

5 MR. JAYARAMAN: Point of clarification if I  
6 could?

7 CHAIRPERSON ANDERSON: Yes.

8 MR. JAYARAMAN: The ones on page #5 we  
9 brought up during the testimony provided by Mr.  
10 Renninger and, you know, I'm attesting I took  
11 those. How does that work? I don't know.

12 CHAIRPERSON ANDERSON: Well, then what I'll  
13 ask is if you want those documents to -- then I  
14 think that you need to be a witness, have  
15 somebody ask you some questions, have someone ask  
16 you some questions, and then you can identify and  
17 say that you took them. Mr. Kline can cross  
18 examine you, but someone has to identify the  
19 documents but if you want them you can be a  
20 witness just for those, so they can be  
21 identified.

22 MR. KLINE: Mr. Jayaraman represents at 10:05

1 at night that he took them, then we will withdraw  
2 our objection.

3 MR. JAYARAMAN: Thank you.

4 CHAIRPERSON ANDERSON: So, what documents are  
5 we then talking about?

6 MR. JAYARAMAN: I'm talking about the two on  
7 page #5 at this point.

8 CHAIRPERSON ANDERSON: Hold on, let me find  
9 #5. All right, so #5. Did we have #6.

10 MR. KLINE: I don't believe so.

11 MR. JAYARAMAN: In fact, I asked Mr.  
12 Renninger to read the license plate.

13 CHAIRPERSON ANDERSON: So who took page #6?  
14 Did you take page #6?

15 MR. JAYARAMAN: No sir.

16 CHAIRPERSON ANDERSON: Then #6 is not a part  
17 of the record.

18 MR. JAYARAMAN: Okay. Thank you.

19 CHAIRPERSON ANDERSON: What about #7?

20 MR. KLINE: Ms. Csiffary testified to #7, #9  
21 and #10 and #11.

22 MR. JAYARAMAN: Page #8 the top picture?

1 CHAIRPERSON ANDERSON: What's page -- let me  
2 see which one is page #8.

3 MR. ALBERTI: I believe she testified to the  
4 top picture. Yeah, she did.

5 MR. JAYARAMAN: The picture on page #8.

6 CHAIRPERSON ANDERSON: So, page #8. Do you  
7 have page #8?

8 MR. JAYARAMAN: Page #9.

9 MR. ALBERTI: We had #9 and #10, both of  
10 those?

11 CHAIRPERSON ANDERSON: Yes.

12 MR. KLINE: Yes.

13 CHAIRPERSON ANDERSON: What about #11? Mr.  
14 Kline?

15 MR. KLINE: Yes.

16 CHAIRPERSON ANDERSON: #12?

17 MR. KLINE: She testified to that also.

18 CHAIRPERSON ANDERSON: And where's #13.

19 MR. KLINE: She just testified to #13.

20 CHAIRPERSON ANDERSON: All right, so we have  
21 -- so what will be admitted is page #1 through  
22 page #12, they are admitted as part of the

1 record. All right. Do you have any other  
2 witnesses that you wish to call, sir?

3 MR. JAYARAMAN: I do not.

4 CHAIRPERSON ANDERSON: Are there any other  
5 documents that you wish to introduce into the  
6 record?

7 MR. JAYARAMAN: Well, we would like to  
8 introduce the exhibit #4 in our initial file  
9 which was the owner delivery -- picture of the  
10 owner's delivery car in the alley.

11 MR. KLINE: Object on the grounds of  
12 relevance.

13 CHAIRPERSON ANDERSON: Hold on a minute, let  
14 me see. I seem to -- can't find exhibit #4.

15 MR. ALBERTI: It's way in the back.

16 CHAIRPERSON ANDERSON: We have not had any --  
17 I mean, we have not had any testimony on #4 of  
18 these documents. I don't know what they are --  
19 we have not had any testimony.

20 MR. JAYARAMAN: Mr. Dansby specifically  
21 testified to the fact that delivery cars were  
22 parking on the side of the -- in the alley,

1 prohibiting, potentially prohibiting trash  
2 pickup, the trash trucks from being able to do  
3 their work which is to empty the trash bins.

4 CHAIRPERSON ANDERSON: So, why didn't you not  
5 -- Mr. Kline, do you have any objections to these  
6 documents?

7 MR. KLINE: Yes, because if he'd been  
8 examined them I certainly would have questioned  
9 why it is he brought up right what's here in the  
10 picture. They haven't been identified.

11 CHAIRPERSON ANDERSON: Yeah, so I'm not going  
12 to allow those. What other documents?

13 MR. JAYARAMAN: That's it.

14 CHAIRPERSON ANDERSON: That's it? All right.  
15 You have no other witnesses, right? So the only  
16 thing that's left is that the board will call its  
17 witness. The board --

18 MR. KLINE: One other thing is we reserve  
19 rebuttal.

20 CHAIRPERSON ANDERSON: Well, yeah, I'm going  
21 to say -- that's what I'm saying is that both  
22 parties have -- will have the right to call

1 rebuttal witnesses based on the board's witness.

2 MR. KLINE: Well, we have rebuttal in  
3 response to their case in chief. I mean, it will  
4 be limited but we certainly have the right as the  
5 [inaudible 11:10:29] to have rebuttal witnesses,  
6 not just with respect to the investigator but  
7 with respect to the issues that were raised  
8 during the case, but I promise you it will be  
9 brief.

10 CHAIRPERSON ANDERSON: Okay, that's fine. I  
11 mean, is it with this witness or someone else who  
12 is not here?

13 MR. KLINE: It's with --

14 CHAIRPERSON ANDERSON: Yes, sir?

15 MR. JAYARAMAN: Are some of those on the PIP?

16 MR. KLINE: A rebuttal need not be on the  
17 PIP.

18 CHAIRPERSON ANDERSON: All right, I was  
19 agreeing with that. We are going to recess this  
20 matter. This -- it's my understanding that we  
21 have -- that Mr. Kline and the ANC have another  
22 protest on the 19th?

1 MR. ALBERTI: That's a continuation.

2 CHAIRPERSON ANDERSON: No, no, no.

3 MR. ALBERTI: Oh that one is, yes.

4 CHAIRPERSON ANDERSON: It's my understanding  
5 that we have another protest hearing with the ANC  
6 and counsel on the 19th.

7 MR. JAYARAMAN: I understand what you're  
8 saying. They're all -- there is a different  
9 establishment not related to these.

10 CHAIRPERSON ANDERSON: Right.

11 MR. JAYARAMAN: It wouldn't be with me.

12 CHAIRPERSON ANDERSON: Oh, it's not with you?

13 MR. JAYARAMAN: Yes, because there is an ANC  
14 commissioner who is willing to take the lead on  
15 that particular case so I will not be the  
16 representative -- the lead representative in  
17 those cases.

18 CHAIRPERSON ANDERSON: Were you planning to  
19 be here?

20 MR. JAYARAMAN: If you ask me to be here I  
21 will --

22 CHAIRPERSON ANDERSON: Well, what I was

1 suggesting was that since I thought since both  
2 parties were going to be here on the 19th and we  
3 need to bring closure to this matter, rather than  
4 sit here and wait three, four months to continue  
5 it, that we'll forget what has gone on, so by  
6 doing it at the next available hearing date, then  
7 at least it's still fresh in the minds of all the  
8 parties. And so my suggestion is, that what the  
9 board is suggesting is that we will continue it  
10 on the 19th at -- it will be on the 19th. I'll  
11 have Ms. Jenkins let you know what time on the  
12 19th that we will have -- we'll continue this  
13 case on the 19th, which is the next date that the  
14 board is in session. We're not in session next  
15 week.

16 MR. KLINE: And the other one is set for  
17 mediation so he may not need it.

18 MR. JAYARAMAN: If at all possible we'd  
19 respectfully request that on the 19th it be in  
20 the morning if at all possible.

21 CHAIRPERSON ANDERSON: It cannot be in the  
22 morning because we -- our morning session -- we



1 know that protest hearings are -- and as a  
2 courtesy to ANCs, and this protest hearing  
3 started early, we try to -- we have protest  
4 hearings start at night, at 4:30, because we  
5 recognize the fact that these are public, people  
6 who work, so we give them an opportunity to go to  
7 work and maybe work half a day and come back in  
8 the afternoon, so it will be in the afternoon, it  
9 will not be in the morning because our morning  
10 there's no way we can have a protest hearing in  
11 the morning.

12 MR. JAYARAMAN: I will have to, at this  
13 point, according to my current schedule it's  
14 available but I have it in the back of my head  
15 there's something else and I can't remember what  
16 it is off the top of my head, but I can look on  
17 my calendar.

18 CHAIRPERSON ANDERSON: Ms. Jenkins will --  
19 it'll be continued on the 19th. Ms. Jenkins will  
20 give you the time and if parties are not  
21 available and can't come to a mutual date, but my  
22 preference is that we conclude this case on the

1 19th so we can -- we'll let both sides get on  
2 with their lives, that you've presented, we'll  
3 make a decision within a reasonable period of  
4 time, and this matter is over rather than we have  
5 the uncertainty about what is going to happen  
6 okay? So, we will recess this case to be  
7 continued on the 19th.

8

9 (Whereupon, the above-entitled matter was  
10 concluded.)

11